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EDUCATION OF THE HANDICAPPED AMENDMENTS OF 1986

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Mr. HATCH, from the Committee on Labor and Human Resources, submitted the following

REPORT

[To accompany S. 2294]

The Committee on Labor and Human Resources, to which was referred the bill (S. 2294) to reauthorize certain programs under the Education of the Handicapped Act, to authorize an early intervention program for handicapped infants, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill (as amended) do pass.

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I. SUMMARY OF THE BILL

As approved by the Committee on Labor and Human Resources, the Education of the Handicapped Amendments of 1986 provides new Federal incentives for the education of handicapped infants and young children under part B of the Education of the Handicapped Act (EHA), and extends the authority for part B evaluations and discretionary assistance programs under parts C through F of the Act through fiscal year 1989.

The bill amends part B of the EHA to promote education and early intervention services to preschool handicapped children in

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two ways. The State grant program, as authorized by P.L. 94-142, would be amended to require States to provide a free appropriate public education to all handicapped children from age 3 by repealing an exception in current law for services to 3 through 5 year old children. States must comply with the new mandate within 3 years after the enactment of the amendments, but not in any fiscal year before September 30, 1990 if the appropriation for the State grant program is not at least $1.3 billion.

The bill also establishes under part B a new Federal program of formula grants to States for the development and operation of early intervention services for handicapped infants from birth through age 2. To be eligible for this assistance, States would be required, within 3 years, to have a statewide comprehensive early intervention service program available to all handicapped infants, defined as children from birth through age 2 who are substantially developmentally delayed or who have congenital or acquired conditions for which they require early intervention. Services that might be provided to these children would include special education as well as a range of therapeutic, health, parent support, and social services. The authorization for the program is $100 million for each fiscal year through 1989. If the appropriation does not reach at least $50 million, States could receive their annual allocation for a "good faith" effort to comply with the program's requirements.

The authority for comprehensive early childhood planning grants, currently found in part C of the Act, is moved to the new early intervention program by the bill, and is provided a separate authorization of appropriations through fiscal year 1989.

Other amendments to part B in the bill change the computation of the 12 percent limit on children counted for purposes of determining a State's part B allocation; increase the proportion of a State's set-aside funds that may be used for certain administrative costs; and establish new authorizations for evaluation activities through fiscal year 1989.

The basic authority for parts C through F discretionary programs is not substantially changed by the bill. Amendments to the authorization for the Early Education for Handicapped Children program under part C refocus this assistance on experimental, training, and research programs in early intervention. Other part C amendments provide new references to physical education under the Regional Resource Centers, deaf-blind, and secondary and transitional services programs. Other amendments require early intervention discretionary assistance and assistance for the severely handicapped in part to address the needs of native American children, including native Hawaiians.

Part D, personnel training programs, amendments direct assistance to areas with personnel shortages and to personnel development in the field of transition programs. Amendments would entitle organizations serving native Americans and native Hawaiians to receive parent training grants.

The bill amends part E, providing assistance for research, to set-aside funding for activities addressing the needs of underserved secondary school-aged handicapped youth and to provide research funding for demonstration projects addressing the needs of native Hawaiians. Part F, Instructional Media for the Handicapped,

would be amended to provide specific authority for the National Theater of the Deaf.

The bill repeals the authorization for the National Advisory Committee on Education of the Handicapped.

II. Background and Need for Legislation

The Committee recognizes the need to amend Part B of the Education of the Handicapped Act (EHA) as well as to authorize a new subpart of Part B for a program of services to meet the needs of handicapped children beginning at birth. There is a great deal of evidence to support this new initiative.

The positive effects of the EHA for handicapped children are indisputable; however, the law is permissive with respect to the provision of services to handicapped children who are younger or older than the traditional school age 5–17. Currently, under Part B of the Act, participating states are mandated to provide a free and appropriate public education for all handicapped children aged 3–21, unless it is inconsistent with state law or practice regarding children aged 3–5 and aged 18–21 inclusive. In addition, section 619 of Part B encourages the provision of services to handicapped children beginning at birth by providing incentive grants for this purpose, although states may only count handicapped children aged 3–5, inclusive, for the purpose of generating federal funds. Finally, the allocation formula for disbursement of the federal share of the cost of educating handicapped children limits the number of handicapped children a state may count for the purpose of generating federal funds to 12 percent of the traditional school aged population, i.e. children in the state aged 5–17, inclusive. Limiting the handicapped child count in this way serves as a disincentive for states to serve handicapped children who are younger or older than traditional school age.

As a result of current law, handicapped children outside of the traditional school age range do not have universal access to services. Rather, as depicted in Table I, the availability of services depends on such factors as the state of residence, the particular handicapping condition of the infant or young child, and age.

TABLE 1.—MINIMUM AGES MANDATED BY STATES AND TERRITORIES FOR PROVIDING SPEICAL EDUCATION TO ALL HANDICAPPED CHILDREN: JULY 1985

Birth	Age 2	Age 3	Age 4	Age 5	Age 6 or "school-age"
Iowa	Virginia	Alaska	Delaware [1]	Arizona	Alabama
Maryland		California	Minnesota	Arkansas	Florida
Michigan		Connecticut	Oklahoma [2]	Colorado	Georgia
Nebraska		District of Columbia	Tennessee	Kansas	Idaho
New Jersey		Hawaii		Maine	Indiana
Oregon		Illinois		Missouri	Kentucky
South Dakota		Louisiana		Nevada	Mississippi
American Samoa		Massachusetts		New Mexico [3]	Montana
Trust Territory		New Hampshire		New York	Vermont
Guam		North Dakota		N. Carolina	Wyoming [4]
		Rhode Island		Ohio	
		Texas [5]		Pennsylvania [6]	
		Washington		S. Carolina	
				Utah	

TABLE 1.—MINIMUM AGES MANDATED BY STATES AND TERRITORIES FOR PROVIDING SPEICAL EDUCATION TO ALL HANDICAPPED CHILDREN: JULY 1985—Continued

Birth	Age 2	Age 3	Age 4	Age 5	Age 6 or "school-age"
.....		Wisconsin		W. Virginia [7]	
.....		Northern		Puerto Rico	
.....		Marianas		Virgin Islands	

[1] Mandates services for deaf, blind, deaf-blind, and autistic children from birth, mandates services for orthopedically impaired, severely mentally handicapped, and trainable mentally handicapped from age 3.
[2] Mandates services for deaf-blind and "failure to thrive" from birth.
[3] Will phase-in mandated services for 3 year old developmentally disabled children by 1988.
[4] Health and social services are mandated for children from birth.
[5] Services mandated from 4 years 7 months.
[6] Mandates services for visually impaired, hearing impaired and deaf-blind from birth.
[7] Will phase-in mandated services for severely handicapped by 1987.

Source: U.S. Department of Education, Office of Special Education and Rehabilitative Services. State EC/SE Status and State Participation in Networks. Unpublished matrix.

Yet, the long-term educational benefits of providing early intervention for handicapped infants and children are well known. The Education of the Handicapped Act Amendments of 1983 amended the Preschool Incentive Grant program to permit states to use their preschool incentive grants to provide special education and related services to handicapped children from birth to three years. Since that time each of the Department of Education's Annual Reports to Congress have documented the educational and economic benefits of early intervention. As stated in the Seventh Annual Report of Congress (1985):

> Studies of the effectiveness of preschool education for the handicapped have demonstrated beyond doubt the economic and educational benefits of programs for young handicapped children. In addition, the studies have shown that the earlier intervention is started, the greater is the ultimate dollar savings and the higher is the rate of educational attainment by these handicapped children.

In February, 1986, the National Council on the Handicapped issued a report entitled TOWARD INDEPENDENCE. This report provided a comprehensive assessment of federal laws and programs affecting the handicapped as well as legislative recommendations. The report also cited the educational and economic benefits of early intervention and recommended that services for handicapped infants begin at birth.

During the reauthorization hearings on the Education of the Handicapped Act on February 4 and February 21, 1986, testimony which underscored the importance of early intervention was presented. Dr. Michael Guralnick, a researcher of the Nisonger Center in Columbus, Ohio noted that:

> In fact, it is quite possible to argue that the early years are even more crucial for handicapped children. The disabilities these children manifest and the conditions surrounding the existence of their handicaps appear to intensify the significance of early experiences. Although not denying that even seriously handicapped children can be highly resilient and are capable of overcoming a difficult

period in early childhood, their abilities to cope, to adapt, and to reorient are much more limited and fragile.

The Education of the Handicapped Act Amendments of 1983 authorized the Secretary to make grants to states "to encourage state-wide planning and coordination of all early education programs so that handicapped children and infants [will] have an opportunity to receive early intervention, infant stimulation and other needed services to ameliorate the effects of handicapping conditions and to enhance their developmental potential", as noted in S. Rep. No. 98-199. At present all states are participating in this program. Although the states vary with respect to state mandates and systems of service delivery, all agree that early intervention includes educational, health and social services. This is evidenced most clearly in states which have mandated early intervention services from birth. In these states, no single agency provides all services to all children. Rather, existing service delivery systems represent interdependence among public and private organizations at both the state and local level. Unlike educational service delivery to handicapped children to school age where the public school system has primary responsibility and serves as the focus of the system, service delivery to young handicapped children in each state in characterized by a patchwork quilt of differential responsibility for services, varying sets of eligibility creiteria and funding approaches across agencies, varying service availability, and the involvement of multiple agencies.

In authorizing a new subpart under Part B of the Education of the Handicapped Act, the Committee has provided the impetus for universal access to services for all handicapped children beginning at birth. In so doing, the Committee recognizes both the interagency nature of service delivery and the benefit of early intervention. This new initiative will assure that a continuum of services is developed to assist handicapped children and their families from birth through the school years.

The authority for the discretionary programs under Parts C-F expire on September 30, 1986. The Committee finds that these programs continue to be a necessary adjunct to the Part B program, and has therefore reauthorized these activities for an additional three years.

III. History of Legislation

On February 4, and February 21, 1986, the Subcommittee on the Handicapped held hearings on the reauthorization of the Education of the Handicapped Act. Witnesses at the Februray 4 hearing included Madeleine Will, the Assistant Secretary of Education for Special Education and Rehabilitative Services; Sandra Parrino, Chairperson of the National Council on the Handicapped; Dr. Michael Guralnick, Ohio State University; Martin and Barbara Lampe, University Park, Maryland; Dr. Philip Burke, Director of Special Education, University of Maryland; and Martha Ziegler, Executive Director, Federation for Children with Special Needs, Boston.

Witnesses at the February 21 hearing included Humphrey Taylor, President, Lou Harris and Associates; John McDonnell,

University of Utah; Brad Ferguson, Roy School District, Utah; Lois Ibrahim and son, Brett, Utah; Ken Baker, Director, New England Regional Resource Center, Vermont; Dr. Hill Walker, University of Oregon; Paul Hazen, Johns Hopkins University; and William Gainer, General Accounting Office.

On April 14, 1986, S. 2294, the Education of the Handicapped Amendments of 1986, was introduced by Senators Weicker, Kerry, Andrews, Inouye, Matsunaga, and Stafford, and was referred to the Committee on Labor and Human Resources. On April 28, 1986, S. 2294 was reported unanimously by the Subcommittee on the Handicapped to the full Committee on Labor and Human Resources, without amendment. The bill was unamimously ordered reported from the Committee, as amended, on May 20, 1986.

IV. Committee Views

The Committee bill amends the provisions of the Education of the Handicapped Act of 1970, as amended by P.L. 98–199 makes technical changes, and authorizes new provisions. These amendments are discussed, insofar as practicable, according to the order in which they appear in the Committee bill, S. 2294. Only those sections of the Act which are amended by S. 2294 are discussed in this report.

Part A—General Provisions

Section 602. Definition of handicapped children

The Committee bill amends section 602(a)(1) to include the term "developmentally delayed" for children aged 3–5 inclusive, in the definition of handicapped children. The adoption of this term is meant to enable states to identify and serve young handicapped children without having to categorically label these children by disability. The term "developmentally delayed" may be applied to children who have been diagnosed by a multidisciplinary team as having a significant delay in one or more areas of development such as speech/language, cognitive, motor, or social/emotional development as measured by appropriate diagnostic instruments and procedures.

The Committee recognizes that many states who currently serve this population use the term developmentally delayed and that such a practice reflects the growing trend in special education away from categorical labeling. The use of this term is not intended to imply a broadening of the definition of handicapped children. Rather, its use is meant to avoid the problems associated with categorically labeling young handicapped children. The Committee notes that data provided by the States under section 618 must now allow for the category of "developmentally delayed" with respect to children aged three through five.

A definition of "handicapped infants" is added to section 602(a). The term is defined as those "individuals from birth to age two, inclusive, who are substantially developmentally delayed or children with specific congenital or acquired conditions who by reason thereof require early intervention." The term birth to age two, inclusive, means children from birth through age two, or until three

years of age. By using this term, the Committee wishes to emphasize that handicapped infants are those who would otherwise be identified under section 602(a)(1). The Committee intends, with respect to the use of the term "substantially developmentally delayed" for children from birth to age two, inclusive, that it be viewed similarly to the term "developmentally delayed" for children aged 3–5, inclusive.

The use of the term "specific congenital or acquired conditions" is meant to enable states to serve infants with identifiable handicaps before they become substantially developmentally delayed. The definition of handicapped infants does not include the so-called environmentally "at risk" infants, as described by T.D. Tjossem of the National Institute of Child Health and Human Development.

Examples of the types of congenital or acquired conditions which the Committee intended to be covered by the phrase "specific congenital or acquired conditions" in section 602(a) include, but are not limited to: (1) Down Syndrome and other chromosomal abnormalities associated with mental retardation; (2) severe microcephaly; (3) Cornelia de Lange Syndrome; (4) sensory impairments; and (5) Rubenstein-Taybi Syndrome.

Virtually all children with the above conditions, and others like them, will need early intervention services but many will not exhibit substantial developmental delays at the time of diagnosis. However, the sooner early intervention services are initiated for such children, the less detrimental will be the consequences of the conditions. Therefore, it is the intent of the Committee that children exhibiting conditions such as those outlined above will be eligible for the early intervention services described in section 602(a), as amended.

The Committee does not intend that EHA funds be used to pay for surgical or purely medical procedures. Conditions which are not intended to be covered include, but are not limited to, the following: (1) cleft palate surgery; (2) surgery for club foot; (3) management of congenital heart ailments; (4) management of cystic fibrosis; and (5) shunting of hydrocephalus.

Clearly, children with such conditions and others like them, require medical assistance and nothing in this bill should be construed to limit the amount or type of assistance available to such children and their families under Crippled Children's Services, Title XIX, or other state or federal funding programs. Furthermore, EHA funds are appropriate for, and should be used, to provide the early intervention services which should accompany some of these surgical or medical procedures, such as cleft palate surgery.

Part B—Assistance for Education of All Handicapped Children

Subpart 1—Education of all Handicapped Children

Section 611. Allocations

The Committee bill amends the allotment formula under section 611(a)(5)(A)(i). Current law specifies that handicapped child counts may not exceed 12 percent of the school-aged population. The

school-age population includes children aged 5 through 17 years and as such is inconsistent with the standards of the legislation that states serve all handicapped children ages 3 through 21 years. Moreover, this has had the unintended effect of providing a disincentive to states for the purpose of serving handicapped children in the 3–5 and 18–21 age range.

The legislative history of this formula indicates that the original purpose of the 12 percent restriction was to reduce the potential for mislabeling children as handicapped in order for a state to attract additional federal funds. In the ten years since the current law has been in effect, only one state has exceeded the 12 percent cap despite the inconsistency in the current formula. Only 4 other states are approaching 12 percent; however, all of these states serve handicapped children aged 3–21. In addition, States bear the majority of the financial responsibility for providing services under this Act. Therefore, the Committee finds there is no evidence to suggest that states engage in the practice of mislabeling children for the purpose of generating federal funds.

Since the Committee bill lowers the mandate for services under Part B to all children aged 3–5, a change in the formula is required. The Committee amendment retains the 12 percent restriction but amends the formula so that the population to be used as the basis for the 12 percent restriction parallels the age group of handicapped children served by the state. The Committee views this amendment as equitable and consistent with the goal of P.L. 94–142 that states serve all handicapped children between the ages of 3–21. The amendment provides states needed flexibility to serve all handicapped children while still guarding against potential abuse.

The Committee bill allows for an expansion in the use of funds under the State set-aside for administration to the extent that the cost of monitoring and complaint investigation exceed the cost of monitoring and complaint investigation during fiscal year 1985. This will provide the States with additional resources to ensure that the Act is being appropriately implemented.

Section 612. Eligibility

The Committee bill requires all participating states to provide services under Part B to all handicapped children beginning at age 3. The Committee recognizes that for many states this will necessitate a change in state law. In addition, the Committee is aware of the increased cost to some state and school districts which will result from this mandate. Therefore, the Committee measure provides a three year phase-in for states who currently do not serve 3–5 year olds in order to comply with the mandate to serve all handicapped children from age 3. Additionally, this mandate will not apply in any fiscal year prior to 1990 if the enacted appropriations for this program fall below $1,300,000,000.

The Committee intends that services under this part be made available to all eligible handicapped children and youth, including those who would be eligible for services under schools supported by the Department of Defense and Bureau of Indian Affairs or tribally-controlled schools.

Section 618. Evaluation

The Committee bill amends this section to include handicapped infants in the evaluation activities authorized under this section. In so doing, the Committee directs the Secretary to include data on this population and the program authorized under subpart 2 of this part, in the Annual Report to Congress.

Subpart 2—Early Intervention Program for Handicapped Infants

The Committee is aware of the educational and economic benefit of early intervention for handicapped children as well as the lack of universal access to comprehensive services. The Committee finds that it is in the national interest that the Federal Government assist state and local efforts to provide services to handicapped infants designed to maximize the individual's ultimate educational attainment. Therefore, a new state grant program is authorized under this subpart.

This new program is designed to build upon existing state systems of serving handicapped infants, and to facilitate the development of systems in states desiring to serve this population. States desiring to participate in the program must make available to all handicapped infants appropriate, comprehensive services to meet their special developmental and educational needs, and to the extent possible, minimize their need for services after they reach school age. The Committee recognizes that state level interagency cooperation has been instrumental in the successes which have been achieved in meeting the needs of handicapped infants, and that such cooperation is essential. The Committee bill is designed to allow states maximum flexibility in meeting the requirements of this subpart.

States participating in this program must establish or designate an Early Intervention Council for the purpose of ensuring that the state provide a comprehensive system of early intervention for handicapped infants. The role of this Council is fundamental to the establishment of a comprehensive service delivery system for handicapped infants. The members of this council must represent each public agency within the state which is or should be providing services to handicapped infants as well as individuals involved in or concerned with the needs of these children. The latter individuals may include but are not limited to parents, private service providers, professionals, or child advocates. The Committee views all of these individuals and especially parents as having unique perspectives important to the work of the council.

The work of the council includes ongoing planning and oversight regarding the States' efforts to provide comprehensive services to all eligible handicapped infants. The Committee views the council as the vehicle by which States will coordinate their service delivery systems, and the means by which to ensure the full participation of all appropriate public agencies in the state.

Also fundamental to the establishment and operation of a comprehensive service delivery system for handicapped infants is the designation of a single state agency to administer the program. The Committee emphasizes that it does not intend for a single state agency to bear the burden of providing all services to all eligible

infants. Rather, the Committee intends that one agency be identified to take the lead in coordinating early intervention program implementation across all appropriate agencies and delivery systems. The agencies that are listed in the bill are intended to be examples of some of the various agencies from which the Governor may choose to designate an agency.

An early intervention program includes services specially designed to meet the unique needs of handicapped infants and their families. The primary purpose of early intervention programs is to enhance the development of the infant. To meet this goal, early intervention programs and services are focused on the infant and family unit. Early intervention services can vary in type, amount and intensity according to the individual needs of the infant and the family as indentified in the individual program plan.

The individualized program plan is based on a multidisciplinary assessment and describes only the early intervention goals and services needed by the infant and his or her family to enhance the infant's development.

"A multidisciplinary assessment" is to be conducted by a multidisciplinary team which assesses the needs of the infant and the family. The team may recommend the services they feel necessary, but the final determination of services must involve the parent. The Committee wishes to emphasize that once agreement is reached on the final determination of services by the team and the parent, those services must be provided. Further, the Committee notes that the word "integrated" in the definition of "early intervention program" refers to the combination of services provided in the individualized program plan.

The Committee has allowed the States three years to develop both a comprehensive early childhood education plan and a statewide comprehensive service delivery system. The terms "a comprehensive early childhood plan for services to handicapped children birth to five", "a comprehensive early childhood state plan" and "the state plan" all mean a single comprehensive statewide early childhood plan for services to handicapped children birth to five developed pursuant to section 627. The terms "comprehensive early childhood plan for handicapped infants" and "comprehensive plan to serve handicapped infants" both mean a single statewide plan for providing early intervention services to handicapped infants and their families. The Committee intends that this plan be part of the comprehensive statewide plan for early childhood services for handicapped children birth to five developed pursuant to section 627.

States may use the planning, development, and implementation grants available to them under section 628 to assist them in meeting the requirements for this subpart. It should be noted that planning and development grants are authorized for up to two years, and implementation grants are authorized for up to one year. Similar grants are also authorized under current law. States may use any combination of these grants within this authorization to help them meet the three year deadline for developing comprehensive early childhood education plans and statewide comprehensive service delivery systems. However, the Committee does not intend that States that have or will have received two years of planning

grants under the current law receive any additional assistance for planing under this program. Rather, the Committee wishes to recognize the importance of this already existing process with respect to the development of the new service delivery system.

The Committee intends that, insofar as possible, access to all services in the individual program plan be without cost to the parent or guardian. The Committee recognizes that some types of services are offered on a sliding fee scale and therefore may involve some cost to be absorbed by the parent or guardian. In addition, other services are covered by private insurers and may therefore already be available to the handicapped infant. The Committee stresses that it does not intend to disrupt these methods of providing services. The Committee does intend, however, that to the extent not inconsistent with existing federal or state law, services provided under this subpart be available without cost. This means for example, that while certain health services may be provided on a sliding fee scale, special education services shall be at no cost to the parent or guardian.

The Committee intends that funds appropriated under this subpart shall be used in coordination with public and private resources devoted to similar and related needs and shall not be used as a means of allowing the withdrawal of such resources and their replacement by funds appropriated under this authority. Such public and private resources include, but are not limited to: Federal, State and local resources allocated under the Social Security Act, title XIX and Title V authorities; Public Health Service Act authorities; disability and other payments made by private insurers; and entitlements and benefits payable under other related state and community health and welfare programs. Programs funded through this authority shall make maximum utilization of all available public, private and voluntary agency resources available to support comprehensive care for infants including health, educational and social services.

In order to assure that participating states make available to all eligible handicapped infants and their families a comprehensive early intervention program, the Committee bill extends procedural safeguards to handicapped infants and their parents or guardians. The Committee believes that procedural safeguards are a fundamental protection which must be made available. The Committee does not intend to encourage an adversarial relationship between parents and professionals. The Committee does believe, however, that procedural safeguards are necessary to guarantee access to services.

The Committee is aware of the great variation in type, combination, duration and frequency of early intervention programs depending on individual need. The Committee anticipates that infants with similar handicapping conditions may each appropriately require different individualized program plans. The application of procedural safeguards is intended to ensure informed parental consent and participation in the service delivery system.

Finally, the Committee bill authorizes a study to be conducted by the General Accounting Office of the services provided for in this subpart and the extent and manner in which such services are available in the states. The Committee intends that this study will

be conducted prior to the development of federal regulations. Due to the complexity and diversity of service delivery within and across states, and the variation in such areas of state assignment of responsibility, eligibility for services, fee structures for service across agencies, types of services available, and role of public and private agencies, it is imperative that federal regulations be developed in a way that enables states to optimally implement the legislation within the unique context of their existing laws and service delivery structure. The Committee intends that the study authorized under this subpart will provide sufficient data so that regulations which will facilitate the ultimate goal of a comprehensive service delivery system for all handicapped infants can be developed.

PART C—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF THE HANDICAPPED

Section 631. Regional Resource Centers

The Committee bill retains the current provisions of law regarding the purposes of regional resource centers. In fiscal year 1983, the number of regional resource centers was reduced from twelve to six and contracts were awarded on a competitive basis to institutions of higher education, state education agencies or a combination of such entities. It is the intent of the Committee that the Secretary continue funding the same number of regional resource centers and that the geographic area they are designed to serve remain the same. Further, the Committee intends that regional resource centers continue to assist the state and local education agencies to expand and improve quality special education and related services, and that the network of centers continue to coordinate their activities offering a broad range of expertise to all state education agencies. As previously noted in S. Rep. 98–191, it is expected that subcontracting for alternative sources of expertise will be limited to those situations where it is either more cost-beneficial than the Regional Resource Centers providing the services themselves, or clearly necessary.

The Committee commends the regional resource centers for their initiative in identifying secondary education transitional services as a priority need area. The Committee believes that regional resource centers can play an important role in facilitating the dissemination of new knowledge and successful activities, and has therefore added bill language giving such additional responsibility to these centers.

Section 632. Centers and Services for Deaf-Blind Children

The Committee bill generally retains the provisions of this section as amended by P.L. 98–199. The existing provisions provide for both direct services including assessment, instruction, and consultation with parents; and indirect services including technical assistance. Language has been added to emphasize that special education includes physical education.

The Committee recognizes deaf-blind children and youth as those who have concomitant hearing and visual impairments, the combination of which causes such severe communication and other devel-

opmental and educational problems that they cannot be accommodated in special education programs solely for the deaf or blind children. This language is consistent with that contained in existing federal regulations. It is well known that the majority of the deaf-blind population is severely and multiply handicapped. Thus, many of these children and youth meet the eligibility requirements of more than one classification of handicapped. As a result, it is possible that the number of children and youth counted as deaf-blind does not reflect the number of children and youth who are actually functionally deaf-blind and therefore meet the eligibility requirements under the definition of deaf-blind. One indication of this is the decreasing number of deaf-blind students reported to the Department of Education coupled with increasing numbers of multihandicapped children as well as the overall stability of the total handicapped child count. For example, the Eighth Annual Report to Congress (1986) compared the number of deaf-blind children and youth reported by the states under Part B of the EHA and subpart 2 of Part B, Title I of the Elementary and Secondary Education act of 1965, as amended, to the number of deaf-blind children served by the grantees under this section. The total numbers of children reported were 2028 and 4433, respectively. This discrepancy was discussed in terms of state variation in reporting criteria, suggesting that some states do indeed classify these children under categories other than deaf-blind.

By retaining current law the Committee recognizes the continued need for the resources offered by the state and multistate projects serving deaf-blind children and youth. As previously noted by this Committee in S. Rep. 98–191, these resources should be made available to certain severely, multiply handicapped children. While it remains the Committee's intention that the centers give priority to underserved deaf-blind populations, the Committee recognizes that not all eligible deaf-blind children and youth are classified as such. It is the intention of the Committee that grantees under this section serve eligible deaf-blind children and youth including those who are counted under other categories of exceptionality, but meet the eligibility criteria under the definition of deaf-blind.

Section 633. Early Intervention and Preschool Services for Handicapped Children

The Committee measure changes the title of this section and revises the discretionary programs currently authorized under this section in light of the new state grant program established as subpart 2 of Part B. New authority is provided to the Secretary for the purposes of: (1) model and demonstration projects for traditionally unserved handicapped infants, children and their families; (2) personnel training in early intervention practices; and (3) research pertaining to the needs of handicapped infants and children and the cost-effectiveness of various approaches to service delivery. The current authority for technical assistance to states is expanded to include the above-mentioned projects, as well as subpart 2 of Part B.

The personnel training authority is intended to address specific training issues pertaining to the needs of handicapped infants and

young children within the various disciplines providing services to these children. The Committee wishes to emphasize that this authority is not intended to support preparation of personnel in any overall sense for the disciplines listed in the bill. This authority is intended to support training models and the development of such models for the preparation of individuals for a specific purpose within the larger disciplines, namely the achievement of the necessary knowledge and skills to work effectively on behalf of handicapped infants and children aged birth through five. For example, this authority is not directed toward the general professional preparation of special educators, physical therapists, nurses or counselors, but rather is directed to preparation of such personnel specifically to practice in the early intervention and early education field. Moreover, this limited authority may be utilized to support programs of a model and technical assistance nature in the early childhood field, rather than programs of a direct preservice and inservice nature.

The research authority added to this section is intended to provide the impetus for further investigations regarding the needs of handicapped infants and young children as well as cost-effective approaches to service delivery systems which meet those needs.

Section 634. Research, Innovation, Training and Dissemination Activities

The Committee bill retains the provisions of this section as contained in current law, authorizing a program targeted towards meeting the needs of severely handicapped children. A new emphasis on severely handicapped Native American children and youth, including Native Hawaiian and other native Pacific Basin children and youth, has been added by the Committee.

By emphasizing native American children, the Committee recognizes the unmet needs of these minority children. The Committee intends to focus attention on the special problems of these children, particularly Native Hawaiia and other Pacific Basin severely handicapped children. Testimony presented to the Subcommittee on the Handicapped referred to the results of the Native Hawaiian Educational Assessment Project which found that Native Hawaiian students suffer from an across-the-board lack of parity with their peers nationally. The Committee believes that the needs of handicapped Native Hawaiian children and other handicapped Native Americans must be addressed specifically to enable these children to begin to overcome this lack of parity.

Section 636. Secondary Education and Transitional Services for Handicapped Youth

A recent survey of disabled Americans conducted by Lou Harris and Associates found that disabled Americans are less involved in community life than are non-disabled Americans. The Committee bill amends this program to reflect an awareness of the total educational needs of handicapped youth including physical education and therapeutic recreation to increase the potential of handicapped youths for community participation.

The Committee recognizes the benefits to be gained when appropriate physical education and therapeutic recreation services are

provided to handicapped children. Research studies have indicated that appropriate physical education services enhance the handicapped child self confidence, provide an avenue for self expression and an opportunity to excel. These are in addition to the direct benefits derived from improved health, strength, flexibility, body tone and body orientation. Reports and testimony presented to the Subcommittee on the Handicapped indicate that many schools were not including physical education services in students' individualized education programs. Furthermore, there appeared to be confusion in the minds of some about the importance of physical education.

The Committee bill emphasizes physical education services in several places. The Committee recognizes that physical education services are an important component of special education, and should be considered as such by those responsible for the development of individualized education programs for handicapped children.

In addition, the Committee bill requires that projects funded under this section be coordinated with other state agencies providing services for which the student is eligible as well as provide individual transition plans for students. The Committee recognizes that state agencies are not the only grantees authorized under this section and that not all projects provide direct services to handicapped youth. These requirements are intended to facilitate interagency cooperation among the various state agencies serving handicapped youth and to ensure that the individual needs of students are considered in program planning.

The Committee recognizes that the special education and related service needs of handicapped youth are diverse and are provided by a range of professionally trained personnel. Nothing in the definitions of special education or related services should be construed to restrict the range of services available to handicapped youth. For example, rehabilitation counseling would be an appropriate related service for handicapped youth who require such service in order to benefit from their special education programs.

The Committee intends that the requirement for individual transition plans apply only to demonstration projects in which students are receiving direct services. The Committee measure retains the provision for the direct participation of parents and students in the planning, development and implementation of projects funded under this section.

Part D—Training Personnel For the Education of the Handicapped

The Committee bill retains the authority of the Secretary to make grants to provide preservice training for special education and related services personnel. Due to the current and impending shortages of qualified personnel, the Committee bill provides that 65 percent of the funds appropriated under this part be reserved for the training activities specified in clauses (A) through (F) of Section 641(a)(1). As previously noted in S. Rep. 98–191, the Committee expects the Secretary to assure that preservice programs funded under this section meet state and professionally recognized stand-

ards for the preparation of special education and related services personnel.

The Committee measure retains authority for the Secretary to reserve funds for contracts to prepare personnel in areas where shortages exist. Further, the bill directs that priority be given to applications from states where shortages exist or where problems with implementation of the Act remain.

Furthermore, the Committee directs the Secretary to make grants to each State educational agency for the training of personnel serving handicapped children. It is the intent of the Committee that States target these training funds on the specific personnel shortages identified within the state through that state's comprehensive system of personnel development.

Testimony presented to the Subcommittee on the Handicapped indicated that there is a critical shortage of special education personnel specifically trained to address the transition of secondary special education students from school to work. Specific authority is provided to the Secretary to make grants to institutions of higher education and other appropriate public agencies and private non-profit organizations for the purpose of conducting model demonstration projects in this area.

It is the Committee's intent that such demonstration projects provide either pre-service or in-service training and that the Secretary encourage a variety of different models and make appropriate provisions for evaluation to determine the most effective models. However, it is not the intent of this Committee that such programs result in a new classification or certification for special education personnel. This provision is in addition to the model and demonstration programs currently authorized. By authorizing this section, the Committee wishes to emphasize the shortage of trained personnel in this area. The Committee does not intend to suggest that this authority replace current model and demonstration initiatives.

The Committee bill retains the current provisions for recruitment and information. This section is amended to emphasize recruitment in physical education, and dissemination in transitional services and programs.

Finally, the Committee bill continues the parent training and information programs originally authorized under the Education of the Handicapped Amendments of 1983. These programs are intended to assist parents to participate effectively with professionals in recognizing and addressing the special education needs of their handicapped children.

Testimony presented to the Subcommittee on the Handicapped summarized the accomplishments of this program and identified 15 states and 2 territories which remain unserved by this program. In addition, special needs were identified among traditionally underrepresented, underserved groups of parents. As a result, the Committee bill directs the Secretary to give priority to establishing parent training centers in unserved geographic areas. In addition, the Secretary is directed to make at least two grants specifically targeted to meet the needs of native Americans. While the Committee has highlighted the needs of native Americans in this bill,

the Committee does not intend to imply that native Americans are the only underrepresented and underserved groups of parents.

New language is added to current law in order to clarify that staff personnel of parent training and information programs may assist parents directly in activities under Part B. This means that these staff may not be prevented or prohibited from accompanying parents of handicapped children to any formal or informal meetings or proceedings pertaining to the child's identification, evaluation, program, or special education placement. The Committee does not intend that this language be construed to authorize a formal advocacy system. Rather, the Committee views these programs as fostering the type of understanding and cooperation among parents and professionals which reduces the need and incidence of formal due process and eventual litigation.

Part E—Research In the Education of the Handicapped

During hearings on the reauthorization of the Education of the Handicapped Act, testimony presented to the Subcommittee on the Handicapped emphasized the importance of this discretionary program. One witness noted: "The impact of special education discretionary research, and the legislation that supports it, can be observed in the dramatic improvement of the overall quality of life of thousands of handicapped persons who are learning, living and working in normal community settings." The Committee bill retains the current provisions for research and research-related activities.

The Committee measure directs the Secretary to reserve not less than 5 percent of the funds made available under this part to address the needs of underserved secondary school aged handicapped youth. The Committee is aware that certain groups of handicapped children are at risk for school dropout, delinquency, low achievement, vocational and interpersonal problems. Some experts estimate as many as 750,000 children with serious behavior disorders currently do not receive services. The Committee believes that research focused on the special needs of secondary school aged handicapped students can lead to the development of new and improved interventions for handicapped youth, particularly those at risk for school dropout.

In carrying out the purpose of the part, the Committee directs the Secretary to give special consideration to establishing a research institute to address the following research priorities: (1) the utilization of computer technology in evaluating and assessing instructional programming, and monitoring the learning of special educational children; and (2) the demonstration and evaluation of home intervention and parent-directed early intervention services.

Over the past several years a variety of independent research projects have been funded and completed in each of these areas. However, there has been little effort to bring together what has been learned and developed to the point that it can be comparatively evaluated, and appropriately disseminated. The Committee directs the Secretary to give additional attention to such activities and thus facilitate the next phase in the research and development

process. It is the Committee's intent to insure more systematic application of research efforts.

PART F—INSTRUCTIONAL MEDIA FOR THE HANDICAPPED

At the time this program was established in 1958, its purpose was to provide support for captioned films and related media to benefit the deaf. Since that time, the program has broadened to benefit other handicapped individuals as well. In 1983, P.L. 98-199 amended this program to include a focus on educational technology and its implications for special education in general. The Committee believes a continuing need exists for the programs and services authorized under current law.

The Subcommittee on the Handicapped received testimony about the increasing effectiveness of closed-captioned television in allowing hearing impaired persons at home and in schools to join the mainstream of American public and commercial television viewing. More than 400,000 hearing impaired persons of all ages now have available to them over 90 hours weekly of a wide range of TV programs on all networks, as well as via cable TV and home video cassettes. Funds authorized under Part F have been used to contract for increased hours of captioning and also to help enable the development and production of 150,000 caption decoders. This modest Federal assistance has resulted in an investment of more than $50 million in decoders by the hearing impaired.

As a result of captioning's success, Congress has increased funding for captioning each year since 1983. The Committee is pleased also that these appropriations have been more than matched by increases in private sector support of captioning. It is clear, however, that continued Federal assistance is required.

The Committee understands that the future success of captioning will depend on continuing growth in the availability of improved caption decoders at reasonable cost, on increasing hours of captioned programs, and on increasing public awareness of decoders and programs by hearing impaired persons.

The Committee has reviewed the Report to Congress on the progress of Special Education Software Center. The contract for developing and operating the center was awarded from funds authorized under this part. The Center's mission is to increase the availability of micro-computer software for the education of handicapped children, improve the quality of such software, and encourage the use of appropriate software in the education of handicapped children. The Committee finds that the enthusiastic public response to the center clearly demonstrates the need for a resource of this type.

Finally, the Committee acknowledges the National Theater of the Deaf as a unique national resource of international acclaim. In its fifteen year existence, the National Theater of the Deaf has played in every state and about 25 countries, including Australia, Japan, India, and most of the countries of Western Europe. It has also been sent abroad by the State Department and the United States Information Agency.

By providing specific authority for the National Theater of the Deaf to receive grants under this part, the Committee intends to

assure continued federal support for this program of national significance.

V. Tabulation of Votes Cast In Committee

In Executive Session of the Committee on Labor and Human Resources on Tuesday, May 20, 1986, S. 2294 as amended, passed unanimously.

VI. Cost Estimate

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 29, 1986.

Hon. Orrin G. Hatch,
Chairman, Committee on Labor and Human Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate of S. 2294, The Education of the Handicapped Amendments of 1986, as ordered reported from the Senate Labor and Human Resources Committee May 20, 1986.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

Rudolph G. Penner.

Congressional Budget Office Cost Estimate

1. Bill Number: S. 2294.

2. Bill title: The Education of the Handicapped Amendments of 1986.

3. Bill status: As ordered reported from the Senate Labor and Human Resources Committee May 20, 1986.

4. Bill purpose: The primary purpose of this bill is: 1) to mandate the education of handicapped children aged 3 to 5, 2) to amend and extend through 1989 the authorization for appropriations for the categorical grant programs under the Education of the Handicapped Act, and 3) to establish a new grant program for handicapped infants. This bill is subject to subsequent appropriations action.

5. Estimated Cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
Education for the Handicapped Act authorization levels:					
Early intervention for handicapped infants	100.0	100.0	100.0	.....	.....
Planning, development, and implementation grants	6.9	7.3	7.7	.....	.....
Deaf-blind centers	15.9	16.8	17.8	.....	.....
Severely handicapped	5.3	5.6	5.9	.....	.....
Early childhood education	17.6	18.6	19.7	.....	.....
Secondary and transitional services	7.3	7.7	8.1	.....	.....
Innovation and development	18.0	19.0	20.1	.....	.....
Media services	18.5	19.6	20.8	.....	.....
Regional resource centers	6.7	7.1	7.5	.....	.....

[By fiscal year, in millions of dollars]

	1987	1988	1989	1990	1991
Recruiting and information	1.2	1.4	1.5		
Special education personnel development	70.4	74.5	79.0		
Special studies	3.8	4.0	4.2		
Postsecondary programs	5.9	6.2	6.6		
GAO study	[1]	[1]			
Total authorization levels	277.5	287.8	298.9		
Total estimated outlays	13.2	213.4	285.9	282.1	69.5

[1] Less than $500,000.

The costs of this bill fall within Function 500.

Basis of estimate

The authorization levels for S. 2294, The Education of the Handicapped Amendments of 1986, are those specifically stated in the bill. Estimated total outlays assume full appropriation of authorized levels and reflect the current program spending patterns.

6. Estimated cost to State and Local Government: S. 2294 would require all states to expand their educational services to provide disabled children from ages 3 through 5 a free appropriate education in order to remain eligible for federal funds under P.L. 94–142, the Education of the Handicapped Act. This new mandate to states would have two stipulations: first, states would have three years to implement the law and second, states would only be required to serve this additional population group if the current appropriation for federal grants to states for the education of the handicapped were at least $1.3 billion. (In 1986 these grants totaled $1.163 billion, reduced under the Balanced Budget Act from the appropriation level of $1.126 billion.). Currently, states are not required to serve children aged 3 to 5 if such service is inconsistent with state law or practice, or the order of any court. This new requirement would have a significant impact on state and local government budgets, potentially increasing the costs nationally be between $530 million and $2.7 billion in 1990.

Present law mandates that states receiving grant assistance provide a free appropriate education to specifically defined handicapped children aged 6 to 17 with the option of serving all handicapped children aged 3 to 21. Currently, all states participate in the state grant program for children 6 to 17, but as of July 1985, only 21 states, 4 territories, and the District of Columbia served all handicapped children from age 3. Approximately 260,000 3 to 5 year olds were served in 1985. S. 2294 would therefore require as many as 29 states and 2 territories to expand services to cover more age groups, more types of disabilities, or both, in order to continue to receive federal grant assistance.

The cost to state and local governments to providing education to 3 to 5 years olds is not known; there is very little data on either the number of handicapped children or the cost of providing them an education. Among the experts in the area, there is a wide range in their estimates of both factors.

The percentage of children aged 6 through 17 who are handicapped is estimated to range from 8 percent to 12 percent, depend-

ing on the definition of handicapped and other factors. The percentage of children aged 3 to 5 who are handicapped is estimated to be lower, primarily because many disabilities, especially learning disabilities, may not be identifiable at the younger age. The current available estimates of handicapped children in this age group range from 5 percent to 8 percent. The United States population of children aged 3 to 5 is estimated by the Census Bureau to be 11.3 million in 1990. Assuming approximately 300,000 3 to 5 year olds would be served in 1990 under current state practices, the additional identifiable handicapped population in 1990 required to be served by this bill could range from 265,000 to 600,000.

The cost estimates for serving a 3 to 5 year old currently range from $2,000 to $4,500 annually. Therefore, the annual additional cost of providing full services to this age group would range frm $530 million to $2.7 billion. The additional cost to state and local governments will depend on a state's existing level of service and the amount of funding that would be provided by the federal government. Currently, federal grants cover approximately 7 percent of the cost of education for handicapped children. Other federally funded programs, such as Head Start, may be an additional source of funding for this age group.

Because the new requirement would not become effective until the 1990's states would have several years to implement a program which conforms to federal guidelines. In addition, the demand for service would likely be lower in the first few years before systems to identify handicapped pre-schoolers are fully implemented.

S. 2294 also estimates a new program of grants to states for handicapped infants. These grants are authorized at $100 million annually. There are no federal fund matching requirements. The other programs authorized in this bill are carried out by grant, contract, or cooperative agreements with state education agencies, institutions of higher education, and public and nonprofit private organizations. No data is available on the number of these arrangements that are actually made with state and local governments.

7. Estimate comparision: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Deborah Kalcevic and Ken Pott.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

VII. Regulatory Impact

The Committee anticipates that regulations for the sections of the Act that are amended by this legislation will need to be revised. The regulatory reform needed as a result of these revisions is expected to impose only a minimal paperwork burden. New regulations will need to be written for the new sections of the Act which are proposed in the bill under subpart 2 of Part B. However, prior to the development of the latter regulations, the General Accounting Office is directed to conduct a study of the extent and manner in which early childhood intervention services are currently available in the States. This study is to be submitted to Congress within eighteen months from the date of enactment of this legislation, and the Committee expects that the findings of the study will be of as-

sistance to the Department of Education in the development of regulations.

VIII. Section-by-Section Analysis

Section 1. Short title

Section 1 establishes the title of the proposed Act as the "Education of the Handicapped Amendments of 1986".

Section 2. Definition of handicapped children

Section 2 amends the definition of "handicapped children" under section 602(a)(1) of the Education of the Handicapped Act, hereinafter referred to as the "the Act" to include, for children ages three through five years, children who are developmentally delayed.

Section 3. Allocations

Section 3(a) amends section 611(a)(5)(A)(i) of the Act limiting the number of children that may be counted as handicapped for purposes of determining a State's grant under part B of the Act. Under current law, no more than 12 percent of any State's population ages five to seventeen, inclusive, may be so counted. This amendment changes the population base to the age range to which the State provides a free appropriate public education to handicapped children.

Section 3(b) amends section 611(c)(2)(A)(ii) of the Act to authorize set-aside funds that are used exclusively by a State for support services and direct services under current law to be used for administrative costs of monitoring and complaint investigation, but only as such costs exceed the State's total administrative costs during fiscal year 1985.

Section 4. Eligibility

Section 4(a) amends section 612(2)(B) of the Act to require States participating in the State grant program to provide a free appropriate public education to all handicapped children ages three through five years. Under current law, States are not required to provide educational services to this group, if it is contrary to State law or practice, or the order of any court.

Section 4(b) provides a three-year allowance for full compliance to allow for any changes in State laws that might become necessary under the amendment. The new mandate would not take effect in any fiscal year before September 30, 1990 if the appropriation for the State grant program under the Act is not at least $1,300,000,000.

Section 5. Authorization for evaluation

Section 5 authorizes appropriations for evaluation activities under section 618 of the Act of $3,800,000 for fiscal year 1987; $4,000,000 for fiscal year 1988; and $4,200,000 for fiscal year 1989.

Section 6. Early intervention program for handicapped infants

Section 6(a) establishes a new program of formula grants to States to develop early intervention programs for handicapped in-

fants as a new subpart 2 of part B of the Act. The State grant program authority is redesignated subpart 1 of part B, and the section designations for parts C through F are changed.

The new Federal grant program provides assistance for services to infants from birth through age 2 who are substantially developmentally delayed or have a specific congenital or acquired condition for they require early intervention. In order for a State to participate in the program it must: (1) meet the general eligibility requirements of the part B state grant program and have a plan approved under that program; (2) have a State Early Intervention Council, appointed by the Governor, consisting of representatives of State agencies serving handicapped infants; (3) have a State agency, designated by the Governor, to be responsible for the general administration and monitoring of the program; (4) after three years, have a comprehensive early childhood plan for services to handicapped children from birth through age five years; and (5) after three years, have a statewide comprehensive early intervention service program available to all handicapped infants between the ages of birth through two years.

The statewide early intervention services program would be available to all eligible handicapped infants and required to provide a multidisciplinary assessment of each child's needs, a written program plan describing the necessary services to meet these needs, and the delivery of such services at no cost to the parent. Parents would have access to procedural safeguards with respect to the provision of early intervention services similar to those available under the State grant program.

States meeting the early intervention program eligiblity requirements would apply to the Secretary of Education for funding under the program through the State Early Intervention Council. The application would, in general, describe the elements of the early intervention program in the State, and would provide assurances that the State would comply with prohibitions against commingling State with Federal funds and supplanting State and local funding with the Federal dollars. Also, the State would be required to assure that no more than ten percent of its Federal grant under the program would be used for administrative costs.

Provisions of the State grant program under subpart 1 of part B concerning withholding and judicial review (Section 616), administration (Section 617), evaluation (Section 618), and payments (Section 620) would also apply to the early intervention grant program.

The authorization of appropriations for the early intervention program is $100,000,000 each year through fiscal year 1989. In the event that appropriations are less than $50,000,000 during any fiscal year, the Secretary of Education would be authorized to provide States with their allocations under the program as long as they show "good faith effort to comply substantially" with the program's requirements.

The early intervention program funding would be allocated among the fifty States, the District of Columbia and Puerto Rico on the basis of their relative populations ages birth through two in fiscal years 1987 and 1988. Thereafter, funds would be allocated among participating States on the basis of the number of handicapped infants served. Under both formulas, no participating State

would receive less than one-half of one percent of the available funds. One percent of the program's appropriation would be reserved for the territories prior to the State formula being applied.

Federal grants for the planning, development, and implementation of comprehensive delivery systems for the education of handicapped children from birth through age five, which are currently authorized by section 623(b) of the Act, continue, but the program's authorization is moved to the new subpart 2 of part B. The planning, development, and implementation grants activity is separately authorized at $6,870,000 for fiscal year 1987, $7,270,000 for fiscal year 1988; and $7,710,000 for fiscal year 1989.

Section 6(b) requires the Comptroller General to conduct a study of the early intervention services funded under the new program or otherwise available in States. Findings from this study must be reported to Congress within 18 months after enactment of the proposed Act.

Section 6(c) defines certain terms relating to the early intervention program's authorization, and makes conforming amendments to various provisions of the Act.

Section 7. Regional resource centers

Section 7(a) amends section 631(a) of part C of the Act, as redesignated, authorizing regional resource centers to include physical education in references to special education services.

Section 7(b) amends the same section of current law to provide that regional resource centers be responsible for gathering and disseminating information on successful programs for the transition of handicapped youth from secondary school to employment or other postsecondary pursuits.

Section 8. Services for deaf and blind youth

Section 8 amends section 632(a)(2)(ii) of part C of the Act, as redsignated, authorizing services for deaf-blind children and youth to provide that physical education activities may be among those activities receiving assistance.

Section 9. Early intervention and preschool services for handicapped children

Section 9.(a) amends section 633(a)(1) of the Act, as redesignated, with new language authorizing assistance for demonstration activities, personnel training, and research relating to early intervention.

Section 9(b) amends section 633(a)(3) to require the Secretary of Education to make one of the above-mentioned grants to the State of Hawaii to address the needs of Native Hawaiian children with handicaps, and one grant to address the needs of native American children with handicaps.

Section 9(c) amends section 633(b), with new language to require that at least 10 percent of the appropriation for the section be available for training and technical assistance to States anticipating or receiving early intervention demonstration grants under this section, and part B grants; and, that at least 10 percent be available for research relating to infant and child development and the effectiveness of early intervention. This section in current law au-

thorizes grants for the planning, implementation and development of comprehensive delivery systems of special education and related services to preschool handicapped children, and is moved to the new subpart 2 of part B authorizing early intervention formula grants. Section 633(c), as redesignated, of current law, concerning set-aside funding for certain activities under the section is repealed, with the new set-aside mandates provided in section 633(b).

Section 10. Research, innovation, training, and dissemination activities

Section 10 amends section 623(c) of the Act, as redesignated, authorizing assistance for research, demonstration, and training activities concerning the needs of severely handicapped children and youth to include such activities addressing the needs of native American, including native Hawaiian, and other Pacific Basin, children and youth.

Section 11. Secondary education and transitional services for handicapped youths

Section 11(a) amends section 636(b) of the Act, as redesignated, authorizing assistance for secondary education and transitional activities for handicapped youth to include physical education and therapeutic recreation programs increasing potential for the participation of the handicapped in the community as activities eligible for funding.

Section 11(b) amends section 636(d) of the Act, as redesignated, with new language requiring projects funded under the section to be coordinated with those of other State agencies for which the student is eligible; provide transition plans for students served; and provide for the direct participation of the student in the planning, development, and implementation of the projects.

Section 12. Authorization of appropriations for Part C

Section 12 amends section 638 of the Act, as redesignated, to authorize appropriations for the programs under Part C through fiscal year 1989: as follows:

Regional Resource Centers (Sec. 631)—$6,700,000 for fiscal year 1987; $7,100,000 for fiscal year 1988; and $7,500,000 for fiscal year 1989;

Services for Deaf-Blind Children and Youths (Sec. 632)—$15,900,000 for fiscal year 1987; $16,800,000 for fiscal year 1988; and $17,800,000 for fiscal year 1989;

Early Intervention and Preschool Services for Handicapped Children (Sec. 633)—$17,600,000 for fiscal year 1987, $18,600,000 for fiscal year 1988; and $19,700,000 for fiscal year 1989;

Research, Innovation, Training and Dissemination Activities (Sec. 634(c), "Severely Handicapped program)—$5,300,000 for fiscal year 1987, $5,600,000 for fiscal year 1988; and $5,900,000 for fiscal year 1989;

Postsecondary Education Programs (Sec. 635)—$5,900,000 for fiscal year 1987; $6,200,000 for fiscal year 1988; and $6,600,000 for fiscal year 1989; and

Secondary Education and Transitional Services for Handicapped Youth (Sec. 636)—$7,300,000 for fiscal year 1987; $7,700,000 for fiscal year 1988; $8,100,000 for fiscal year 1989.

Section 13. Grants for personnel training

Section 13(a) amends section 641(a) of part D of the Act, as redesignated, authorizing assistance for personnel training to provide that the Secretary give priority to applications from States where personnel shortages exist or where problems of program implementation remain.

Section 13(b) amends section 641(c)(1) authorizing assistance for parent training to require two grants to be made to nonprofit organizations serving native Americans, one of which would be made to an organization serving native Hawaiians. These amendments also require priority under the grant program to be given to unserved geographic areas, and authorize the parent training and information programs to provide direct assistance to parents in activities relating to part B.

Section 13(c) creates a new subsection (d) under section 641 to authorize grants to institutions of higher education and other appropriate public and private nonprofit organizations to conduct demonstration projects to train transition resource teachers and to address critical shortages in special education personnel.

Section 14. Grants for traineeships

Section 14 amends section 642 of the Act, as redesignated, authorizing assistance to state educational agencies for traineeships to provide that such assistance be made available to each State educational agency, for programs training any personnel serving handicapped children. Under current law, assistance is not necessarily available to all State educational agencies, and is confined to the preservice and inservice training of teachers of handicapped children or their supervisors.

Section 15. Grants to improve recruitment of educational personnel

Section 15(a) amends section 643(a)(2) of the Act, as redesignated, authorizing a clearinghouse on the education of the handicapped and project grants for information dissemination and the recruitment of educational personnel to include, as an objective, to encourage individuals to pursue employment in the field of physical education of handicapped children and youth.

Section 15(b) amends section 643(b) to include as an objective of the national clearinghouse on postsecondary education, to provide information on transitional services and programs.

Section 16. Authorization of appropriations for Part D

Section 16(a) amends section 645(a) of the Act, as redesignated, to authorize appropriations for programs under Part D through fiscal year 1989, as follows:

Grants for Personnel Training (Sec. 641–642)—$70,400,000 for fiscal year 1987; $74,500,000 for fiscal year 1988; and $79,000,000 for fiscal year 1989;

Personnel Recruitment and Information Dissemination (Sec. 643)—$1,200,000 for fiscal year 1987; $1,400,000 for fiscal year 1988; and $1,500,000 for fiscal year 1989.

Section 16(b) provides that of the sums appropriated under the authorizations contained in Section 16(a), 65 percent is reserved for preservice personnel training.

Section 17. Research and demonstration projects

Section 17(a) amends section 651 of the Act, as redesignated, authorizing research and demonstration projects in the education of handicapped children, to reserve 5 percent of the annual appropriation for assistance to address the needs of underserved secondary school-aged handicapped youth.

Section 17(b) amends section 651(a) to provide that research projects funded under the section include model programs and demonstrations for native Hawaiian handicapped children to be undertaken by an educational agency providing comprehensive educational services to native Hawaiians.

Section 18. Authorization of appropriations for Part E

Section 18 amends section 654 of the Act, as redesignated, to authorize appropriations for research programs under Part E of $18,000,000 for fiscal year 1987; $19,000,000 for fiscal year 1988; and $20,100,000 for fiscal year 1989.

Section 19. Instructional media

Section 19(a) amends section 661 of the Act, as redesignated, describing the purposes of the part as promoting the general welfare of the deaf, to include references to the importance of the theater.

Section 19(b) amends the same section to include references to the development of material and technology for the handicapped.

Section 19(c) adds a new subsection (c) to section 662 of the Act, as redesignated, to authorize funding, through grants, contracts or cooperative agreements, to the National Theater of the Deaf.

Section 20. Authorization of appropriations for Part F

Section 20 amends section 664 of the Act, as redesignated, to authorize appropriations for instructional media for the handicapped programs under Part F of $18,500,000 for fiscal year 1987; $19,600,000 for fiscal year 1988; and $20,800,000 for fiscal year 1989.

Section 21. Repeal

Section 21 repeals section 604 of the Act authorizing the National Advisory Committee on the Education of Handicapped Children and Youth.

IX. Changes In Existing Law

In compliance with rule XXVI paragraph 12 of the Standing Rules of the Senate, the following provides a print of the statute or the part or sections thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

EDUCATION OF THE HANDICAPPED ACT

PART A—GENERAL PROVISIONS

SHORT TITLE; STATEMENT OF FINDINGS AND PURPOSE

SEC. 601. (a) This title may be cited as the "Education of the Handicapped Act".

(b) The Congress finds that—

(1) there are more than eight million handicapped children in the United States today;

(2) the special educational needs of such children are not being fully met;

(3) more than half of the handicapped children in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity;

(4) one million of the handicapped children in the United States are excluded entirely from the public school system and will not go through the educational process with their peers;

(5) there are many handicapped children throughout the United States participating in regular school programs whose handicaps prevent them from having a successful educational experience because their handicaps are undetected;

(6) because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense;

(7) developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special education and related services to meet the needs of handicapped children;

(8) State and local educational agencies have a responsibility to provide education for all handicapped children, but present financial resources are inadequate to meet the special educational needs of handicapped children; and

(9) it is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of handicapped children in order to assure equal protection of the law.

(c) It is the purpose of this Act to assure that all handicapped children have available to them, within the time periods specified in section 612(2)(B), a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children *and to assure that all handicapped infants have available to them a free appropriate early intervention program designed to meet their unique needs.*

DEFINITIONS

SEC. 602. (a) As used in this title—

(1) The term "handicapped children" means mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children or children with specific learning disabilities who by reason thereof require special education and related services, *and for children aged three to five, inclusive, includes developmentally delayed children.*

(2) The term "handicapped infants" means individuals from birth to age two, inclusive, who are substantially developmentally delayed or children with specific congenital or acquired conditions who by reason thereof require early intervention.

[(2)]

(3) The term "Advisory Committee" means the National Advisory Committee on the Education of Handicapped Children.

(4) The term "construction", except where otherwise specified, means (A) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; or (B) acquisition of existing structures not owned by any agency or institution making application for assistance under this title; or (C) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (D) acquisition of land in connection with the activities in clauses (A), (B), and (C); or (E) a combination of any two or more of the foregoing.

(5) The term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instrumental equipment and necessary furniture, printed, published, and audio-visual instructional materials, telecommunications, sensory, and other technological aids and devices, and books, periodicals, documents, and other related materials.

(6) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(7) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(8) The term "local agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for public elementary or secondary schools in a city, county, township, school district, or other principal subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(9) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(10) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(11) The term "institution of higher education" means an educational institution in any State which—

(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) is legally authorized within such State to provide a program of education beyond high school;

(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(D) is a public or other nonprofit institution; and

(E) is accredited by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: *Provided, however,* That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which requre the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, he shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this Act and shall also determine whether particular institutions meet such standards. For the pusposes of this paragraph the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

(12) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may

lawfully inure, to the benefit of any private shareholder or individual.

(13) The term "research and related purposes" means research, research training (including the payment of stipends and allowances), surveys, or demonstrations in the field of education of handicapped children, or the dissemination of information derived therefrom, including (but without limitation) experimental schools.

(14) The term "Secretary" means the Secretary of Education.

(15) The term "children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

(16) The term "special education" means specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions.

(17) The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling services, except that such medical services shall be for diagnostic and evluation purposes only) as may be required to assist a handicapped child to benefit from special education, and includes the early identification and assessment of handicapping conditions in children.

(18) The term "free appropriate public education" means special education and related services which (A) have been provided at public expense, under public supervision and direction, and without charge, (B) meet the standards of the State educational agency, (C) include an appropriate preschool, elementary, or secondary school education in the State involved, and (D) are provided in conformity with the individualized education program required under section 614(a)(5).

(19) The term "individualized education program" means a written statement for each handicapped child developed in any meeting by a representative of the local educational agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of handicapped children, the teacher, the parents or guardian of such child, and, whenever appropriate, such child, which statement shall include (A) a statement of the present levels of educational performance of such child, (B) a statement of annual goals, including short-term instructional objectives, (C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular

educational programs, (D) the projected date for initiation and anticipated duration of such services, and (E) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.

(20) The term "excess costs" means those costs which are in excess of the average annual per student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting (A) amounts received under this part or under title I or title VII of the Elementary and Secondary Education Act of 1965, and (B) any State or local funds expended for programs which would qualify for assistance under this part or under such titles.

(21) The term "native language" has the meaning given that term by section 703(a)(2) of the Bilingual Education Act (20 U.S.C. 880b–1(a)(2)).

(22) The term "intermediate educational unit" means any public authority, other than a local educational agency, which is under the general supervision of a State educational agency, which is established by State law for the purpose of providing free public education on a regional basis, and which provides special education and related services to handicapped children within that State.

(b) For the purpose of subpart 2 of part A of this title—

(1) the term "early intervention" means a program of services including special education integrated services as specified in section 625;

(2) the term "Early Intervention Council" means the Council established in accordance with the provisions of section 624(a);

(3) the term "Governor" means the chief executive of any State; and

(4) the term "State agency" means the State agency established or designated in accordance with section 624(b).

[(b)]*(c)* For purposes of part C of this title, "handicapped youth" means any handicapped child (as defined in section 602(a)(1)) who—

(1) is twelve years of age or older; or

(2) is enrolled in the seventh or higher grade in school.

OFFICE OF SPECIAL EDUCATION PROGRAMS

SEC. 603. (a) There shall be, within the Office of Special Education and Rehabilitative Services in the Department of Education, an Office of Special Education Programs which shall be the principal agency in the Department for administering and carrying out this Act and other programs and activities concerning the education and training of the handicapped.

(b)(1) The Office established under subsection (a) shall be headed by a Deputy Assistant Secretary who shall be selected by the Secretary and shall report directly to the Assistant Secretary for Special Education and Rehabilitative Services. The position of Deputy Assistant Secretary shall be in grade GS–18 of the General Schedule under section 5104 of title 5, United States Code, and shall be a Senior Executive Service position for the purposes of section 3132(a)(2) of such title.

(2) In addition to such Deputy Assistant Secretary, there shall be established in such office not less than six positions for persons to assist the Deputy Assistant Secretary, including the position of Associate Deputy Assistant Secretary. Each such position shall be in grade GS–15 of the General Schedule under section 5104 of title 5, United States Code.

NATIONAL ADVISORY COMMITTEE ON THE EDUCATION OF HANDICAPPED CHILDREN AND YOUTH

SEC. 604. (a) The Secretary shall establish in the Department of Education a National Advisory Committee on Education of Handicapped Children and Youth, consisting of fifteen members, appointed by the Secretary. Not less than five such members shall be parents of handicapped children and the remainder shall be handicapped persons (including students), persons affiliated with education, training, or research programs for the handicapped, and those having demonstrated a commitment to the education of handicapped children.

(b) The Advisory Committee shall review the administration and operation of the programs authorzed by this Act and other provisions of law administered by the Secretary with respect to handicapped children (including the effect of such programs in improving the educational attainment of such children) and make recommendations for the improvement of such programs. Such recommendations shall take into consideration experience gained under this and other Federal programs for handicapped children and, to the extent appropriate, experience gained under other public and private programs for handicapped children. The Advisory Committee may make such recommendations to the Secretary as the Committee considers appropriate and shall make an annual report of its findings and recommendations to the Secretary not later than June 30 of each year. The Secretary shall transmit each such report, together with comments and recommendations, to the Congress.

(c) There are authorized to be appropriated for the purposes of this section $200,000 for fiscal year 1984, and for each of the two succeeding fiscal years.]

ACQUISITION OF EQUIPMENT AND CONSTRUCTION OF NECESSARY FACILITIES

SEC. 605. (a) In the case of any program authorized by this title, if the Secretary determines that such program will be improved by permitting the funds authorized for such program to be used for the acquistion of equipment and the construction of necessary facilities, he may authorize the use of such funds for such purposes.

(b) If within twenty years after the completion of any construction (except minor remodeling or alteration) for which funds have been paid pursuant to a grant or contract under this title the facility constructed ceases to be used for the purposes for which it was constructed, the United States, unless the Secretary determines that there is good cause for releasing the recipient of the funds from its obligation, shall be entitled to recover from the applicant or other owner of the facility an amount which bears the same

ratio to the then value of the facility as the amount of such Federal funds bore to the cost of the portion of the facility financed with such funds. Such value shall be determined by agreement of the parties or by action brought in the United States distict court for the district in which the facility is situated.

EMPLOYMENT OF HANDICAPPED INDIVIDUALS

SEC. 606. The Secretary shall assure that each recipient of assistance under this Act shall make positive efforts to employ and advance in employment qualified handicapped individuals in programs assisted under this Act.

GRANTS FOR THE REMOVAL OF ARCHITECTURAL BARRIERS

SEC. 607. (a) The Secretary is authorized to make grants and to enter into cooperative agreements with state educational agencies to assist such agencies in making grants to local educational agencies or intermediate educational units to pay part or all of the cost of altering existing buildings and equipment in accordance with standards promulgated under the Act approved August 12, 1968 (Public Law 90–480), relating to architectural barriers.

(b) For purposes of carrying out the provisions of this section, there are authorized to be appropriated such sums as may be necessary.

REQUIREMENTS FOR PRESCRIBING REGULATIONS

SEC. 608. (a) For purposes of complying with section 431(b) of the general Education Provisions Act with respect to regulations promulgated under part B of this Act, the thirty-day period under such section shall be ninety days.

(b) The Secretary may not implement, or publish in final form, any regulation prescribed pursuant to this Act which would procedurally or substantively lessen the protections provided to handicapped children under this Act, as embodied in regulations in effect on July 20, 1983 (particularly as such protections relate to parental consent to initial evaluation or initial placement in special education, least restrictive environment, related services, timelines, attendance of evaluation personnel at IEP meetings, or qualifications of personnel), except to the extent that such regulation reflects the clear and unequivocal intent of the Congress in legislation.

(c) The Secretary shall transmit a copy of any regulations promulgated under this Act to the National Advisory Committee on the Education of the Handicapped concurrently with publication in the Federal Register.

PART B—ASSISTANCE FOR EDUCATION OF ALL HANDICAPPED CHILDREN

Subpart 1—Education of all Handicapped Children

SETTLEMENTS AND ALLOCATIONS

SEC. 611. (a)(1) Except as provided in paragraph (3) and in section 619, the maximum amount of the grant to which a State is entitled under this [part] *subpart* for any fiscal year shall be equal to—

(A) the number of handicapped children aged three to twenty-one, inclusive, in such State who are receiving special education and related services; multiplied by—

(B)(i) 5 per centum, for the fiscal year ending September 30, 1978, of the average per pupil expenditure in public elementary and secondary schools in the United States;

(ii) 10 per centum, for the fiscal year ending September 30, 1979, of the average per pupil expenditure in public elementary and secondary schools in the United States;

(iii) 20 per centum, for the fiscal year ending September 30, 1980, of the average per pupil expenditure in public elementary and secondary schools in the United States;

(iv) 30 per centum, for the fiscal year ending September 30, 1981, of the average per pupil expenditure in public elementary and secondary schools in the United States; and

(v) 40 per centum, for the fiscal year ending September 30, 1982, and for each fiscal year thereafter, of the average per pupil expenditure in public elementary and secondary schools in the United States;

except that no State shall receive an amount which is less than the amount which such State received under this part for the fiscal year ending September 30, 1977.

(2) For the purpose of this subsection and subsection (b) through subsection (e), the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(3) The number of handicapped children receiving special education and related services in any fiscal year shall be equal to the average of the number of such children receiving special education and related services on October 1 and February 1 of the fiscal year preceding the fiscal year for which the determination is made.

(4) For purposes of paragraph (1)(B), the term "average per pupil expenditure", in the United States, means the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or, if satisfactory data for such year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the United States (which for purposes of this subsection, means the fifty States and the District of Columbia), as the case may be, plus any direct expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in av-

erage daily attendance to whom such agencies provided free public education during such preceding year.

(5)(A) In determining the allotment of each State under paragraph (1), the Secretary may not count—

(i) handicapped children in such State under paragraph (1)(A) to the extent the number of such children is greater than 12 per centum of the number of all children aged five to seventeen, inclusive, in such State *except that the age category for the number of all children subject to the per centum limitation under this clause shall, in the case of a State which actually provides free appropriate public education for a different age category, be the age category which the State actually serves;* and

(ii) handicapped children who are counted under section 121 of the Elementary and Secondary Education Act of 1965.

(B) For purposes of subparagraph (A), the number of children aged five to seventeen, inclusive, in any State shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(b)(1) Of the funds received under subsection (a) by any State for the fiscal year ending September 30, 1978—

(A) 50 per centum of such funds may be used by such State in accordance with the provisions of paragraph (2); and

(B) 50 per centum of such funds shall be distributed by such State pursuant to subsection (d) to local educational agencies and intermediate educational units in such State, for use in accordance with the priorities established under section 612(3).

(2) Of the funds which any State may use under paragraph (1)(A)—

(A) an amount which is equal to the greater of—

(i) 5 per centum of the total amount of funds received under this part by such State; or

(ii) $200,000;

may be used by such State for administrative costs related to carrying out sections 612 and 613;

(B) the remainder shall be used by such State to provide support services and direct services in accordance with the priorities established under section 612(3);

(c)(1) Of the funds received under subsection (a) by any State for the fiscal year ending September 30, 1979, and for each fiscal year thereafter—

(A) 25 per centum of such funds may be used by such State in accordance with the provisions of paragraph (2); and

(B) except as provided in paragraph (3);[1] 75 per centum of such funds shall be distributed by such State pursuant to subsection (d) to local educational agencies and intermediate educational units in such State, for use in accordance with priorities established under section 612(3).

(2)(A) Subject to the provisions of subparagraph (B), of the funds which any State may use under paragraph (1)(A)—

(i) an amount which is equal to the greater of—

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[1] Apparent error. Should read: "(B) except as provided in paragraph (4) . . ."

(I) 5 per centum of the total amount of funds received under this part by such State; or

(II) $300,000;

may be used by such State for administrative costs related to carrying out the provisions of sections 612 and 613; and

[(ii) the remainder shall be used by such State to provide support services and direct services, in accordance with the priorities established under section 612(3).]

(ii) the remainder shall be used by such State to provide support services and direct services, in accordance with the priorities established under section 612(3), and for the administrative costs of monitoring and complaint investigation, but only to the extent that such costs exceed the costs of administration incurred during fiscal year 1985.

(B) The amount expended by any State from the funds available to such State under paragraph (1)(A) in any fiscal year for the provision of support services or for the provision of direct services shall be matched on a program basis by such State, from funds other than Federal funds, for the provision of support services or for the provision of direct services for the fiscal year involved.

(3) The provisions of section 613(a)(9) shall not apply with respect to amounts available for use by any State under paragraph (2).

(4)(A) No funds shall be distributed by any State under this subsection in any fiscal year to any local educational agency or intermediate educational unit in such State if—

(i) such local educational agency or intermediate educational unit is entitled, under subsection (d), to less than $7,500 for such fiscal year; or

(ii) such local educational agency or intermediate educational unit has not submitted an application for such funds which meets the requirements of section 614.

(B) Whenever the provisions of subparagraph (A) apply, the State involved shall use such funds to assure the provision of a free appropriate education to handicapped children residing in the area served by such local educational agency or such intermediate educational unit. The provisions of paragraph (2)(B) shall not apply to the use of such funds.

(d) From the total amount of funds available to local educational agencies and intermediate educational units in any State under subsection (b)(1)(B) or subsection (c)(1)(B), as the case may be, each local educational agency or intermediate educational unit shall be entitled to an amount which bears the same ratio to the total amount available under subsection (b)(1)(B) or subsection (c)(1)(B), as the case may be, as the number of handicapped children aged three to twenty-one, inclusive, receiving special education and related services in such local educational agency or intermediate educational unit bears to the aggregate number of handicapped children aged three to twenty-one, inclusive, receiving special education and related services in all local educational agencies and intermediate educational units which apply to the State educational agency involved for funds under this part.

(e)(1) The jurisdictions to which this subsection applies are Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which this subsection applies shall be entitled to a grant for the purposes set forth in section 601(c) in an amount equal to an amount determined by the Secretary in accordance with criteria based on respective needs, except that the aggregate of the amount to which such jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 1 per centum of the aggregate of the amounts available to all States under this part for that fiscal year. If the aggregate of the amounts, determined by the Secretary pursuant to the preceding sentence, to be so needed for any fiscal year exceeds an amount equal to such 1 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.

(3) The amount expended for administration by each jurisdiction under this subsection shall not exceed 5 per centum of the amount allotted to such jurisdiction for any fiscal year, or $35,000, whichever is greater.

(f)(1) The Secretary is authorized to make payments to the Secretary of the Interior according to the need for such assistance for the education of handicapped children on reservations serviced by elementary and secondary schools operated for Indian children by the Department of the Interior. The amount of such payment for any fiscal year shall not exceed 1 per centum of the aggregate amounts available to all States under this part for that fiscal year.

(2) The Secretary of the Interior may receive an allotment under this subsection only after submitting to the Secretary an application which meets the applicable requirements of section 614(a) and which is approved by the Secretary. The provisions of section 616 shall apply to any such application.

(g)(1) If the sums appropriated for any fiscal year for making payments to States under this [part] *subpart* are not sufficient to pay in full the total amounts which all States are entitled to receive under this part for such fiscal year, the maximum amounts which all States are entitled to receive under this part for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(2) In the case of any fiscal year in which the maximum amounts for which States are eligible have been reduced under the first sentence of paragraph (1), and in which additional funds have not been made available to pay in full the total of such maximum amounts under the last sentence of such paragraph, the State educational agency shall fix dates before which each local educational agency or intermediate educational unit shall report to the State educational agency on the amount of funds available to the local educational agency or intermediate educational unit, under the provisions of subsection (d), which it estimates that it will expend in accordance with the provisions of this part. The amounts so available to any local educational agency or intermediate educational unit, or any amount which would be available to any other local educational agency or intermediate educational unit if it were to submit a program meeting the requirements of this part, which the State educational agency determines will not be used for the

period of its availability, shall be available for allocation to those local educational agencies or intermediate educational units, in the manner provided by this section, which the State educational agency determines will need and be able to use additional funds to carry out approved programs.

ELIGIBILITY

SEC. 612. In order to qualify for assistance under this [part] *subpart* in any fiscal year, a State shall demonstrate to the Secretary that the following conditions are met:

(1) The State has in effect a policy that assures all handicapped children the right to a free appropriate public education.

(2) The State has developed a plan pursuant to section 613(b) in effect prior to the date of the enactment of the Education for All Handicapped Children Act of 1975 and submitted not later than August 21, 1975, which will be amended so as to comply with the provisions of this paragraph. Each such amended plan shall set forth in detail the policies and procedures which the State will undertake or has undertaken in order to assure that—

(A) there is established (i) a goal of providing full educational opportunity to all handicapped children, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal;

(B) a free appropriate public education will be available for all handicapped children between the ages of three and eighteen within the State not later than September 1, 1978, and for all handicapped children between the ages of three and twenty-one within the State not later than September 1, 1980, except that, with respect to handicapped children [aged three to five and] [1] aged eighteen to twenty-one, inclusive, the requirements of this clause shall not be applied in any State if the application of such requirements would be inconsistent with State law or practice, or the order of any court, respecting public education within such age groups in the State;

(C) all children residing in the State who are handicapped, regardless of the severity of their handicap, and who are in need of special education and related services are identified, located, and evaluated, and that a practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services;

(D) policies and procedures are established in accordance with detailed criteria prescribed under section 617(c); and

(E) the amendment to the plan submitted by the State required by this section shall be available to parents, guardians,

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[1] *Effective Date and Applicability. This amendment shall take effect three years after the date of enactment of this Act with respect to States which, in order to comply with the amendment, have to qualify under State laws.*

This amendment shall not apply in any fiscal year in which the appropriations for subpart 1 of part B of the Education of the Handicapped Act do not equal or exceed $1,300,000,000.

The provisions of subparagraph (b) are repealed on September 30, 1990.

and other members of the general public at least thirty days prior to the date of submission of the amendment to the Commission.

(3) The State has established priorities for providing a free appropriate public education to all handicapped children, which priorities shall meet the timetables set forth in clause (B) of paragraph (2) of this section, first with respect to handicapped children who are not receiving an education, and second with respect to handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education, and has made adequate progress in meeting the timetables set forth in clause (B) of paragraph (2) of this section.

(4) Each local educational agency in the State will maintain records of the individualized education program for each handicapped child, and such program shall be established, reviewed, and revised as provided in section 614(a)(5).

(5) The State has established (A) procedural safeguards as required by section 615, (B) procedures to assure that, to the maximum extent appropriate, handicapped children, including children in public or private institutions or other care facilities, are educated with children who are not handicapped, and that special classes, separate schooling, or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily, and (C) procedures to assure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of handicapped children will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

(6) The State educational agency shall be responsible for assuring that the requirements of this [part] *subpart* are carried out and that all educational programs for handicapped children with the State, including all such programs administered by any other State or local agency, will be under the general supervision of the persons responsible for educational programs for handicapped children in the State educational agency and shall meet educational standards of the State educational agency.

(7) The State shall assure that (A) in carrying out the requirements of this section procedures are established for consultation with individuals involved in or concerned with the education of handicapped children, including handicapped individuals and parents or guardians of handicapped children, and (B) there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to adoption of the policies, programs, and procedures required pursuant to the provisions of this section and section 613.

SEC. 613. (a) Any State meeting the eligibility requirements set forth in section 612 and desiring to participate in the program under this [part] *subpart* shall submit to the Secretary, through

its State educational agency, a State plan at such time, in such manner, and containing or accompanied by such information, as he deems necessary. Each such plan shall—

(1) set forth policies and procedures designed to assure that funds paid to the State under this [part] *subpart* will be expended in accordance with the provisions of this [part,] *subpart,* with particular attention given to the provisions of sections 611(b), 611(c), 611(d), 612(2), and 612(3);

(2) provide that programs and procedures will be established to assure that funds received by the State or any of its political subdivisions under any other Federal program, including section 121 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241c-2), section 305(b)(8) of such Act (20 U.S.C. 844a(b)(8)) or its successor authority, and section 122(a)(4)(B) of the Vocational Education Act of 1963 (20 U.S.C. 1262(a)(4)(B)), under which there is specific authority for the provision of assistance for the education of handicapped children, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all handicapped children, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs;

(3) set forth, consistent with the purposes of this Act, a description of programs and procedures for (A) the development and implementation of a comprehensive system of personnel development which shall include the inservice training of general and special educational instructional and support personnel, detailed procedures to assure that all personnel necessary to carry out the purposes of this Act are appropriately and adequately prepared and trained, and effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar projects, and (B) adopting, where appropriate, promising educational practices and materials development through such projects;

(4) set forth policies and procedures to assure—

(A) that, to the extent consistent with the number and location of handicapped children in the State who are enrolled in private elementary and secondary schools. provision is made for the participation of such children in the program assisted or carried out under this [part] *subpart* by providing for such children special education and related services; and

(B) that (i) handicapped children in private schools and facilities will be provided special education and related services (in conformance with an individualized educational program as required by this [part] *subpart* at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this [part] *subpart* or any other applicable law requiring the provision of special education and related services to all handicapped children

within such State, and (ii) in all such instances the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies;

(5) set forth policies and procedures which assure that the State shall seek to recover any funds made available under this [part] *subpart* for services to any child who is determined to be erroneously classified as eligible to be counted under section 611(a) or section 611(d);

(6) provide satisfactory assurance that the control of funds provided under this [part] *subpart* and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this [part,] *subpart*, and that a public agency will administer such funds and property;

(7) provide for (A) making such reports in such form and containing such information as the Secretary may require to carry out his functions under this [part,] *subpart*, and (B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness, and verification of such reports and proper disbursement of Federal funds under this [part] *subpart*.

(8) provide procedures to assure that final action with respect to any application submitted by a local educational agency or an intermediate educational unit shall not be taken without first affording the local educational agency or intermediate educational unit involved reasonable notice and opportunity for a hearing;

(9) provide satisfactory assurance that Federal funds made available under this [part] *subpart* (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for the education of handicapped children and in no case to supplant such State and local funds, except that, where the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Secretary may waive in part the requirement of this clause if he concurs with the evidence provided by the State;

(10) provide, consistent with procedures prescribed pursuant to section 617(a)(2), satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this [part] *subpart* to the State, including any such funds paid by the State to local educational agencies and intermediate educational units;

(11) provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of handicapped children (including evaluation of individualized education programs), in accordance with such criteria that the Secretary shall prescribe pursuant to section 617; and

(12) provide that the State has an advisory panel, appointed by the Governor or any other official authorized under State law to make such appointments, composed of individuals in-

volved in or concerned with the education of handicapped children, including handicapped individuals, teachers, parents or guardians of handicapped children, State and local education officials, and administrators of programs for handicapped children, which (A) advises the State educational agency of unmet needs within the State in the education of handicapped children, (B) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under this [part,] *subpart,* and (C) assists the State in developing and reporting such data and evaluations as may assist the Secretary in the performance of his responsibilities under section 618.

(b) Whenever a State educational agency provides free appropriate public education for handicapped children, or provides direct services to such children, such State educational agency shall include, as part of the State plan required by subsection (a) of this section, such additional assurances not specified in such subsection (a) as are contained in section 614(a), except that funds available for the provision of such education or services may be expended without regard to the provisions relating to excess costs in section 614(a).

(c) The Secretary shall approve any State plan and any modification thereof which—

(1) is submitted by a State eligible in accordance with section 612; and

(2) meets the requirements of subsection (a) and subsection (b).

The Secretary shall disapprove any State plan which does not meet the requirements of the preceding sentence, but shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

(d)(1) If, on the date of enactment of the Education of the Handicapped Act Amendments of 1983, a State educational agency is prohibited by law from providing for the participation in special programs of handicapped children enrolled in private elementary and secondary schools as required by subsection (a)(4), the Secretary shall waive such requirement, and shall arrange for the provision of service to such children through arrangements which shall be subject to the requirements of subsection (a)(4).

(2)(A) When the Secretary arranges for services pursuant to this subsection, the Secretary, after consultation with the appropriate public and private school officials, shall pay to the provider of such services an amount per child which may not exceed the Federal amount provided per child under this [part,] *subpart,* to all handicapped children enrolled in the State for services for the fiscal year preceding the fiscal year for which the determination is made.

(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State educational agency the amount the Secretary estimates would be necessary to pay the cost of such services.

(C) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no

longer be any failure or inability on the part of the State educational agency to meet the requirements of subsection (a)(4).

(3)(A) The Secretary shall not take any final action under this subsection until the State educational agency affected by such action has had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or his designee to show cause why such action should not be taken.

(B) If a State educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the future proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary of to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

APPLICATION

SEC. 614. (a) A local educational agency or an intermediate educational unit which desires to receive payments under section 611(d) for any fiscal year shall submit an application to the appropriate State educational agency. Such application shall—

(1) provide satisfactory assurance that payments under this part will be used for excess costs directly attributable to programs which—

(A) provide that all children residing within the jurisdiction of the local educational agency or the intermediate educational unit who are handicapped, regardless of the severity of their handicap, and are in need of special education and related services will be identified, located, and evaluated, and provide for the inclusion of a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving such education and services;

(B) establish policies and procedures in accordance with detailed criteria prescribed under section 617(c);

(C) establish a goal of providing full educational opportunities to all handicapped children, including—

(i) procedures for the implementation and use of the comprehensive system of personnel development established by the State educational agency under section 613(a)(3);

(ii) the provision of, and the establishment of priorities for providing, a free appropriate public education to all handicapped children, first with respect to handicapped children who are not receiving an education, and second with respect to handicapped children, within each disability, with the most severe handicaps who are receiving an inadequate education;

(iii) the participation and consultation of the parents or guardian of such children; and

(iv) to the maximum extent practicable and consistent with the provisions of section 612(5)(B), the provision of special services to enable such children to participate in regular educational programs;

(D) establish a detailed timetable for accomplishing the goal described in subclause (C); and

(E) provide a description of the kind and number of facilities, personnel, and services necessary to meet the goal described in subclause (C);

(2) provide satisfactory assurance that (A) the control of funds provided under this part, and title to property derived from such funds, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property, (B) Federal funds expended by local educational agencies and intermediate educational units for programs under this part (i) shall be used to pay only the excess costs directly attributable to the education of handicapped children, and (ii) shall be used to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of handicapped children, and in no case to supplant such State and local funds, and (C) State and local funds will be used in the jurisdiction of the local educational agency or intermediate educational unit to provide services in program areas which, taken as a whole, are at least comparable to services being provided in areas of such jurisdiction which are not receiving funds under this part;

(3)(A) provide for furnishing such information (which, in the case of reports relating to performance, is in accordance with specific performance criteria related to program objectives), as may be necessary to enable the State educational agency to perform its duties under this part, including information relating to the educational achievement of handicapped children participating in programs carried out under this part; and

(B) provide for keeping such records, and provide for affording such access to such records, as the State educational agency may find necessary to assure the correctness and verification of such information furnished under subclause (A);

(4) provide for making the application and all pertinent documents related to such application available to parents, guard-

ians, and other members of the general public, and provide that all evaluations and reports required under clause (3) shall be public information;

(5) provide assurances that the local educational agency or intermediate educational unit will establish, or revise, whichever is appropriate, an individualized education program for each handicapped child at the beginning of each school year and will then review and, if appropriate revise, its provisions periodically, but not less than annually;

(6) provide satisfactory assurance that policies and programs established and administered by the local educational agency or intermediate educational unit shall be consistent with the provisions of paragraph (1) through paragraph (7) of section 612 and section 613(a); and

(7) provide satisfactory assurance that the local educational agency or intermediate educational unit will establish and maintain procedural safeguards in accordance with the provisions of sections 612(5)(B), 612(5)(C), and 615.

(b)(1) A State educational agency shall approve any application submitted by a local educational agency or an intermediate educational unit under subsection (a) if the State educational agency determines that such application meets the requirements of subsection (a), except that no such application may be approved until the State plan submitted by such State educational agency under subsection (a) is approved by the Secretary under section 613(c). A State educational agency shall disapprove any application submitted by a local educational agency or an intermediate educational unit under subsection (a) if the State educational agency determines that such application does not meet the requirements of subsection (a).

(2)(A) Whenever a State educational agency, after reasonable notice and opportunity for a hearing, finds that a local educational agency or an intermediate educational unit, in the administration of an application approved by the State educational agency under paragraph (1), has failed to comply with any requirement set forth in such application, the State educational agency, after giving appropriate notice to the local educational agency or the intermediate educational unit, shall—

(i) make no further payments to such local educational agency or such intermediate educational unit under section 620 until the State educational agency is satisfied that there is no longer any failure to comply with the requirement involved; or

(ii) take such finding into account in its review of any application made by such local educational agency or such intermediate educational unit under subsection (a).

(B) The provisions of the last sentence of section 616(a) shall apply to any local educational agency or any intermediate educational unit receiving any notification from a State educational agency under this paragraph.

(3) In carrying out its functions under paragraph (1), each State educational agency shall consider any decision made pursuant to a hearing held under section 615 which is adverse to the local educa-

tional agency or intermediate educational unit involved in such decision.

(c)(1) A State educational agency may, for purposes of the consideration and approval of applications under this section, require local educational agencies to submit a consolidated application for payments if such State educational agency determines that any individual application submitted by any such local educational agency will be disapproved because such local educational agency is ineligible to receive payments because of the application of section 611(c)(4)(A)(i) or such local educational agency would be unable to establish and maintain programs of sufficient size and scope to effectively meet the educational needs of handicapped children.

(2)(A) In any case in which a consolidated application of local educational agencies is approved by a State educational agency under paragraph (1), the payments which such local educational agencies may receive shall be equal to the sum of payments to which each such local educational agency would be entitled under section 611(d) if an individual application of any such local educational agency has been approved.

(B) The State educational agency shall prescribe rules and regulations with respect to consolidated applications submitted under this subsection which are consistent with the provisions of paragraph (1) through paragraph (7) of section 612 and section 613(a) and which provide participating local educational agencies with joint responsibilities for implementing programs receiving payments under this part.

(C) In any case in which an intermediate educational unit is required pursuant to State law to carry out the provisions of this part, the joint responsibilities given to local educational agencies under subparagraph (B) shall not apply to the administration and disbursement of any payments received by such intermediate educational unit. Such responsibilities shall be carried out exclusively by such intermediate educational unit.

(d) Whenever a State educational agency determines that a local educational agency—

(1) is unable or unwilling to establish and maintain programs of free appropriate public education which meet the requirements established in subsection (a);

(2) is unable or unwilling to be consolidated with other local educational agencies in order to establish and maintain such programs; or

(3) has one or more handicapped children who can best be served by a regional or State center designed to meet the needs of such children;

the State educational agency shall use the payments which would have been available to such local educational agency to provide special education and related services directly to handicapped children residing in the area served by such local educational agency. The State educational agency may provide such education and services in such manner, and at such locations (including regional or State centers), as it considers appropriate, except that the manner in which such education and services are provided shall be consistent with the requirements of this part.

(e) Whenever a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all handicapped children residing in the area served by such agency with State and local funds otherwise available to such agency, the State educational agency may reallocate funds (or such portion of those funds as may not be required to provide such education and services) made available to such agency, pursuant to section 611(d), to such other local educational agencies within the State as are not adequately providing special education and related services to all handicapped children residing in the areas served by such other local educational agencies.

(f) Notwithstanding the provisions of subsection (a)(2)(B)(ii), any local educational agency which is required to carry out any program for the education of handicapped children pursuant to a State law shall be entitled to receive payments under section 611(d) for use in carrying out such program, except that such payments may not be used to reduce the level of expenditures for such program made by such local educational agency from State or local funds below the level of such expenditures for the fiscal year prior to the fiscal year for which such local educational agency seeks such payments.

PROCEDURAL SAFEGUARDS

SEC. 615. (a) Any State educational agency, any local educational agency, and any intermediate educational unit which receives assistance under this part shall establish and maintain procedures in accordance with subsection (b) through subsection (e) of this section to assure that handicapped children and their parents or guardians are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies and units.

(b)(1) The procedures required by this section shall include, but shall not be limited to—

(A) an opportunity for the parents or guardian of a handicapped child to examine all relevant records with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child;

(B) procedures to protect the rights of the child whenever the parents or guardian of the child are not known, unavailable, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, local educational agency, or intermediate educational unit involved in the education or care of the child) to act as a surrogate for the parents or guardian;

(C) written prior notice to the parents or guardian of the child whenever such agency or unit—

(i) proposes to initiate or change, or

(ii) refuses to initiate or change, or

the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child;

(D) procedures designed to assure that the notice required by clause (C) fully inform the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section; and

(E) an opportunity to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.

WITHHOLDING AND JUDICIAL REVIEW

SEC. 616. (a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State educational agency involved (and to any local educational agency or intermediate educational unit affected by any failure described in clause (2)), finds—

(1) that there has been a failure to comply substantially with any provision of section 612 or section 613, or

(2) that in the administration of the State plan there is a failure to comply with any provision of this part or with any requirements set forth in the application of a local educational agency or intermediate educational unit approved by the State educational agency pursuant to the State plan.

the Secretary (A) shall, after notifying the State educational agency, withhold any further payments to the State under this part, and (B) may, after notifying the State educational agency, withhold further payments to the State under the Federal programs specified in section 613(a)(2) within his jurisdiction, to the extent that funds under such programs are available for the provision of assistance for the education of handicapped children. If the Secretary withholds further payments under clause (A) or clause (B) he may determine that such withholding will be limited to programs or projects under the State plan, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this part to specified local educational agencies or intermediate educational units affected by the failure. Until the Secretary is satisfied that there is not longer any failure to comply with the provisions of this part, as specified in clause (1) or clause (2), no further payments shall be made to the State under this part or under the Federal programs specified in section 613(a)(2) within his jurisdiction to the extend that funds under such programs are available for the provision of assistance for the education of handicapped children, or payments by the State educational agency under this part shall be limited to local educational agencies and intermediate educational units whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, local educational agency, or intermediate educational unit in receipt of a notice pursuant to the first sentence of this subsection shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency or unit.

(b)(1) If any State is dissatisfied with the Secretary's final action with respect to its State plan submitted under section 613, such

State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

ADMINISTRATION

SEC. 617. (a)(1) In carrying out his duties under this part, the Secretary shall—

(A) cooperate with, and furnish all technical assistance necessary, directly or by grant or contract, to the States in matters relating to the education of handicapped children and the executive of the provisions of this part;

(B) provide such short-term training programs and institutes as are necessary;

(C) disseminate information, and otherwise promote the education of all handicapped children within the States; and

(D) assure that each State shall, within one year after the date of the enactment of the Education for All Handicapped Children Act of 1975, provide certification of the actual number of handicapped children receiving special education and related services in each State.

(2) As soon as practicable after the date of the enactment of the Education for All Handicapped Children Act of 1975, the Secretary shall, by regulation, prescribe a uniform financial report to be utilized by State educational agencies in submitting plans under this part in order to assure equity among the States.

(b) In carrying out the provisions of this part, the Secretary (and the Secretary, in carrying out the provisions of subsection (c)) shall issue, not later that January 1, 1977, amend, and revoke such rules and regulations as may be necessary. No other less formal method of implementing such provisions is authorized.

(c) The Secretary shall take appropriate action, in accordance with the provisions of section 438 of the General Education Provisions Act, to assure the protection of the confidentiality of any personnally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to the provisions of this part.

(d) The Secretary is authorized to hire qualified personnel necessary to conduct data collection and evaluation activities required by subsections (b), (c) and (d) of section 618 and to carry out his duties under subsection (a)(1) of this subsection without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates except that no more than twenty such personnel shall be employed at any time.

EVALUATION

SEC. 618. (a) The Secretary shall directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigatons, and evaluations—

(1) to assess progress in the implementation of this Act, the impact, and the effectiveness of State and local efforts to provide free appropriate public education to all handicapped *infants,* children and youth; and

(2) to provide Congress with information relevant to policymaking and provide Federal, State, and local educational agencies with information relevant to program management, administration, and effectiveness with respect to such education.

(b) In carrying out the responsibilities under this section, the Secretary, on at least an annual basis, shall obtain data concerning programs and projects assisted under this Act, and under other Federal laws relating to the education of handicapped *infants,* children and youth, and such additional information, from State and local educational agencies and other appropriate sources, as is necessary for the implementation of this Act including—

(1) the number of handicapped *infants,* children and youth in each State receiving a free appropriate public education (special education and related services) by disability category and by age group (*0–2,* 3–5, 6–11, 12–17, and 18–21);

(2) the number of handicapped *infants,* children and youth in each State who are participating in regular educational programs, by disability category (consistent with the requirements of section 612(5)(B) and section 614(a)(1)(C)(iv)), and the number of handicapped *infants,* children and youth in separate classes, separate schools or facilities, or public or private residential facilities, or who have been otherwise removed from the regular education environment.

(3) the number of handicapped *infants,* children and youth exiting the educational system each year through program completion or otherwise, by disability category and age, and anticipated service for the next year.

(4) the amount of Federal, State, and local funds expended in each State specifically for special education and related services (which may be based upon a sampling of data from State agencies including State and local educational agencies);

(5) the number and type of personnel that are employed in the provision of special education and related services to handicapped *infants,* children and youth by disability category served, and the estimated number and type of additional per-

sonnel by disability category needed to adequately carry out the policy established by this Act; and

(6) a description of the special education and related services needed to fully implement the Act throughout each State, including estimates of the number of handicapped *infants,* children and youth within each disability by age group (*0–2,* 3–5, 6–11, 12–17, and 18–21) in need of improved services and the type of programs and services in need of improvement.

(c) The Secretary shall, by grant contract, or cooperative agreement, provide for evaluation studies to determine the impact of this Act. Each such evaluation shall include recommendations for improvement of the programs under this Act. The Secretary shall, not later than July 1 of each year, submit to the appropriate committees of each House of the Congress and publish in the Federal Register proposed evaluation priorities for review and comment.

(d)(1) The Secretary is authorized to enter into cooperative agreements with State educational agencies to carry out studies to assess the impact and effectiveness of programs assisted under the Act.

(2) Such agreements shall—

(A) provide for the payment of not to exceed 60 per centum of the total cost of studies conducted by a participating State educational agency to assess the impact and effectiveness of programs assisted under the Act; and

(B) be developed in consultation with the State Advisory Panel established under this Act, the local educational agencies and others involved in or concerned with the education of handicapped *infants,* children and youth.

(3) The Secretary shall provide technical assistance to participating State educational agencies in the implementation of the study design, analysis, and reporting procedures.

(4) In addition, the Secretary shall dessiminate information from such studies to State educational agencies, and as appropriate, others involved in or concerned with the education of handicapped *infants,* children and youth.

(e)(1) At least one study shall be a longitudinal study of a sample of handicapped students, encompassing the full range of handicapping conditions, examining their educational progress while in special education and their occupational, educational, and independent living status after graduating from secondary school or otherwise leaving special education.

(2) At least one study shall focus on obtaining and compiling current information available through State educational agencies and local educational agencies and other service providers, regarding State and local expenditures for educational services for handicapped students (including special education and related services), and gather information needed in order to calculate a range of per pupil expenditures by handicapping condition.

(f)(1) Not later than one hundred and twenty days after the close of each fiscal year, the Secretary shall publish and disseminate an annual report on the progress being made toward the provision of a free appropriate public education to all handicapped *infants,* children and youth. The annual report is to be transmitted to the appropriate committees of each House of Congress [and the National Advisory Committee on the Education of Handicapped Children

and Youth], and published and disseminated in sufficient quantities to the education community at large and to other interested parties.

(2) The Secretary shall include in each annual report—

(A) an index and summary of each evaluation activity and results of studies conducted under subsection (c);

(B) a compilation and analysis of data gathered under subsection (b);

(C) a description of findings and determinations resulting from monitoring reviews of State implementation of part B of this Act;

(D) an analysis and evaluation of the participation of handicapped *infants*, children and youth in vocational education programs and services;

(E) an analysis and evaluation of the effectiveness of procedures undertaken by each State educational agency, local educational agency, and intermediate educational unit to ensure that handicapped *infants*, children and youth receive special education and related services in the least restrictive environment commensurate with their needs and to improve programs of instruction for handicapped *infants*, children and youth in day or residential facilities; and

(F) any recommendations for change in the provisions of this Act or any other Federal law providing support for the education of handicapped *infants*, children and youth.

(3) In the annual report for fiscal year 1985 (published in 1986) and for every third year thereafter, the Secretary shall include in the annual report—

(A) an index of all current projects funded under parts C through F of this Act; and

[(B) data reported under sections 621, 622, 623, 627, 634, 641, and 653.]

(B) data reported under sections 631, 632, 633, 637, 644, 651, and 663.

[(g) There are authorized to be appropriated $3,100,000 for fiscal year 1984, $3,270,000 for fiscal year 1985, and $3,440,000 for fiscal year 1986 to carry out the provisions of this section.]

(g) There are authorized to be appropriated $3,800,000 for fiscal year 1987, $4,000,000 for fiscal year 1988, and $4,200,000 for fiscal year 1989 to carry out the provisions of this section.

INCENTIVE GRANTS

SEC. 619. (a) The Secretary shall make a grant to any State which—

(1) has met the eligibility requirements of section 612;

(2) has a State plan approved under section 613; and

(3) provides special education and related services to handicapped children aged three to five, inclusive, who are counted for the purposes of section 611(a)(1)(A).

The maximum amount of the grant for each fiscal year which a State may receive under this section shall be $300 for each such child in that State.

(b) Each State which—

(1) has met the eligibility requirements of section 612,
(2) has a State plan approved under section 613, and
(3) desires to receive a grant under this section.

shall make an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(c) The Secretary shall pay to each State having an application approved under subsection (b) of this section the amount of which the State is entitled under this section, which amount shall be used for the purpose of providing the services specified in clause (3) of subsection (a) of this section [, and for providing special education and related services for handicapped children from birth to three years of age].

(d) If the sums appropriated for any fiscal year for making payments to States under this section are not sufficient to pay in full the maximum amounts which all States may receive under this part for such fiscal year, the maximum amounts which all States may receive under this part for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such redued amounts shall be increased on the same basis as they were reduced.

(e) In addition to the sums necessary to pay the entitlements under section 611, there are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.

PAYMENTS

SEC. 620. (a) The Secretary shall make payments to each State in amounts which the State educational agency of such State is eligible to receive under this part. Any State educational agency receiving payments under this subsection shall distribute payments to the local educational agencies and intermediate educational units of such State in amounts which such agencies and units are eligible to receive under this part after the State educational agency has approved applications of such agencies or units for payments in accordance with section 614(b).

(b) Payments under this part may be made in advance or by way of reimbursement and in such installments as the Secretary may determine necessary.

Subpart 2--Early Intervention for Handicapped Infants

PROGRAM AUTHORIZED

SEC. 621. (a) The Secretary shall make grants, in accordance with the provisions of this subpart, to States to carry out an early intervention program for handicapped infants.

(b)(1) There are authorized to be appropriated $100,000,000 for the fiscal year 1987, and for each succeeding fiscal year ending prior to October 1, 1989, to carry out the provisions of this subpart other than section 628.

(2) There are authorized to be appropriated $6,870,000 for fiscal year 1987, $7,270,000 for fiscal year 1988, and $7,710,000 for fiscal year 1989, to carry out the provisions of section 627.

(c) During any fiscal year in which the amount appropriated for this subpart is less than $50,000,000 each State shall be entitled to receive its allotment under this subpart if the Secretary determines that the State is making a good faith effort to comply substantially with the provisions of this subpart.

ALLOTMENT TO STATES

SEC. 622. (a)(1) From the sums appropriated to carry out this subpart for any fiscal year, the Secretary shall reserve 1 per centum for payments to Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands to be allotted in accordance with their respective needs.

(2)(A) For each of the fiscal years 1987 and 1988 from the remainder of such funds, the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the number of eligible infants in the State bears to the number of eligible infants in all States, except that no State shall receive less than 0.5 per centum of such remainder.

(B) For the purpose of subparagraph (A)—

(i) the term "infants" means children from birth to age two, inclusive; and

(ii) the term "eligible infants" means two percent of the infants in a State and in all States.

(C) For each fiscal year after September 30, 1988, from the remainder of such funds the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the number of eligible handicapped infants served to the number of such infants served by all States, except that no State shall receive less than 0.5 per centum of such remainder.

(D) For the purpose of this paragraph, the term "State" does not include the jurisdictions described in paragraph (1).

(b) If any State elects not to receive its allotment under this part, the Secretary shall reallot, among the remaining States, amounts from such State in accordance with subsection (a) of this section.

ELIGIBILITY

SEC. 623. In order to qualify for assistance under this subpart in each fiscal year, a State shall demonstrate to the Secretary that the State has—

(1) met the eligibility requirements of section 612;

(2) a State plan approved under section 613;

(3) a State Early Intervention Council which meets the requirements of section 624(a) for the purpose of ensuring that the State provides a comprehensive system of early intervention for handicapped infants;

(4) beginning three years after the date of enactment of this subpart, a comprehensive early childhood plan for services to handicapped children from birth to age five, inclusive, which address service delivery to all handicapped infants and includes the transition to services under subpart 1;

(5) beginning three years after the date of enactment of this subpart, a statewide comprehensive system of early intervention services available to serve all handicapped infants; and

(6) a State agency administration which meets the requirements of section 624(b).

EARLY INTERVENTION COUNCIL; STATE ADMINISTRATION

SEC. 624. (a)(1) The Governor shall appoint, or designate an existing agency as, an Early Intervention Council which shall be composed of members who represent each public agency within the State providing services to handicapped infants including the grant recipient under section 627, one member representing the Governor, and at least two individuals involved in or concerned with the needs of handicapped infants, such as members of the State Advisory Council on Special Education, members of the Developmental Disabilities Council, or representatives of the Parent Training Center established under part D of this Act.

(2) The Early Intervention Council shall—

(A) identify the sources of fiscal and other support for services for early intervention programs and ensure that each State agency is making a financial contribution to support;

(B) promote the development of formal interagency agreements for services for handicapped infants;

(C) assist the State agency in the development of and approval of the comprehensive early childhood plan and the application for assistance under this subpart;

(D) ensure that the application for assistance under this subpart is coordinated with grants awarded in the State under section 627;

(E) disseminate information regarding early intervention programs; and

(F) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs operated within the State for handicapped infants.

(3) The report required by clause (F) of paragraph (2) of this subsection shall include recommendations on the appropriate use of Federal and State funds, together with a statement of statewide policy for the early intervention program for handicapped infants within the State.

(4) A summary of the data required by this section shall be included in the annual report of the Secretary under section 618 of this Act.

(5) The Early Intervention Council required by this section shall meet at least quarterly in each fiscal year.

(b)(1)(A) Subject to the provisions of subparagraph (B), the Governor shall establish or designate a State agency for the purpose of administering this subpart in accordance with the provisions of this subsection. In carrying out this paragraph, the Governor may designate the State educational agency, the mental health agency, the mental retardation agency, a State health or social service agency, or a State Early Intervention Council.

(B) In any State in which there is a State agency administering a program which is substantially the same as the program authorized

by this subpart on the date of enactment of the Education of the Handicapped Amendments of 1986, the Governor shall designate that agency for the purpose of administering this subpart pursuant to subparagraph (A).

(2) The agency designated under paragraph (1) shall have responsibility for the general administration, supervision, and monitoring of the comprehensive system of early intevention services for handicapped infants within the State including the delivery of services to such infants. The State agency shall also be responsible either directly or by contract or other agreement with other agencies or organizations for coordinating multidisciplinary referrals of handicapped infants, conducting indepth assessments of such infants, and coordinating early intervention services for handicapped infants within the State.

PROGRAM COMPONENTS

SEC. 625. (a) Each State shall develop and carry out a comprehensive plan to serve handicapped infants in accordance with the provisions of subsections (b), (c), and (d).

(b) The State has or will establish an early intervention services program serving all handicapped infants from birth to age two, inclusive, within the State.

(c) Each handicapped infant shall have—

(1) a multidisciplinary assessment of individual needs and services required to meet such needs;

(2) a written individualized program plan developed by a multidisciplinary team, including the parent or guardian describing necessary services which may include but is not limited to—

(A) special education;
(B) speech and language pathology/audiology;
(C) occupational therapy;
(D) physical therapy;
(E) psychological services;
(F) health services;
(G) parent and family support services; and
(H) social services; and

(3) access to all services described in the early intervention program plan without cost, to the extent not inconsistent with Federal or State law, to the parent or guardian.

(d) (1) Each individualized program shall be reviewed at least annually.

(2) Services under the individualized program shall be provided by qualified personnel.

(3) The individualized program shall include provisions which support the transition of handicapped infants to services provided under subpart 1 of this part.

PROCEDURAL SAFEGUARDS

SEC. 626. (a) Any State agency which receives assistance under this subpart shall establish and maintain procedures to assure that handicapped infants and their parents or guardians are guaranteed

procedural safeguards with respect to the provision of early intervention services.

(b) (1) The procedures required by this section shall include, but shall not be limited to—

(A) an opportunity for the parents or guardian of a handicapped infant to examine all records relating to the assessment of that infant's need for early intervention services, and the development of that infant's individualized program plan;

(B) procedures to protect the rights of the infant whenever the parents or guardian of the child are not known, unavailable, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State agency or local service program funded under this subpart) to act as a surrogate for the parents or guardian;

(C) written prior notice to the parents or guardian of the infant whenever the State agency or local service program funded under this subpart—

(i) proposes to initiate or change, or

(ii) refuses to initate or change, the assessment of such infant's need for early intervention services or the provision of such services.

(D) procedures designed to assure that the notice required by clause (C) fully inform the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section; and

(E) an opportunity for the parents or guardian to present complaints with respect to any matter relating to the assessment of the handicapped infant's need for early intervention services or the provision of services to such infant.

(2) Whenever a complaint has been received under paragraph (1) of this subsection, the parents or guardian shall have an opportunity for an impartial due process hearing which shall be conducted by the State agency. No hearing conducted pursuant to the reguirements of this paragraph shall be conducted by an employee of such agency directly involved in the provision of early intervention services of the handicapped infant who is the subject of the hearing.

(c) Any party of any hearing conducted pursuant to subsection (b) shall be accorded (1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to early intervention for handicapped infants, (2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses, (3) the right to a written or electronic verbatim record of such hearing, and (4) the right to written findings of fact and decisions (which findings and decisions shall also be transmitted to the Early Intervention Council established pursuant to section 624(c)).

(d)(1) A decision made in a hearing conducted pursuant to paragraph (2) of subsection (b) shall be final, except that any party involved in such hearing may appeal such decisions under paragraph (2) of this subsection.

(2) Any party aggrieved by the findings and decision made under subsection (b) shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction

or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of evidence, shall grant such relief as the court determines is appropriate.

(3) During the pendency of any proceedings conducted pursuant to this section, unless the State agency and the parents or guardian otherwise agree, the infant shall receive early intervention services not subject to dispute.

(4) The district courts of the United States shall have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

APPLICATION

SEC. 627. (a) Each State meeting the eligibility requirements set forth in section 623 and desiring to participate in the program under this subpart shall submit an application to the Secretary through the Early Intervention Council at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

(b) Each such application shall—

(1) specify the role and financial contribution of each State agency providing services to handicapped infants;

(2) identify and describe the services which shall be available to handicapped infants and their families;

(3) describe the procedures used to identify and serve handicapped infants;

(4) set forth policies and procedures designed to assure that, to the extent consistent with the number and location of handicapped infants in the State, provision is made for the participation of such infants in the program assisted or carried out under this subpart by providing for such children community based early intervention services;

(5) provide assurances that Federal funds made available under this subpart (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for the purposes described in this subpart and in no case to supplant such State and local funds; and

(6) provide assurances that the State will not expend more than 10 per centum of its allotment on administrative costs of carrying out the early intervention services for which assistance is sought.

PLANNING, DEVELOPMENT, AND IMPLEMENTATION GRANTS

SEC. 628. (a) The Secretary shall make one of the following types of grants to each State through the State agency for services for which handicapped children aged birth through 5 are eligible. Grants under this section may be made to any State which submits an application which meets the requirements of this section:

(1) PLANNING GRANT.—A grant for a maximum of two years for the purpose of assessing needs within the State and estab-

lishing a procedure and design for the development of a comprehensive early childhood State plan which includes parent participation and training of professionals and others.

(2) DEVELOPMENT GRANT.—A grant for a maximum of two years for the purpose of developing a comprehensive early childhood State plan, and gaining approval of the plan from the State educational agency, the Secretary of Education, or other designated official of the appropriate State agency.

(3) IMPLEMENTATION GRANT.—A grant for a maximum of one year for the purpose of implementing and evaluating the comprehensive early childhood State plan.

(b) Each State educational agency or other State agency desiring to receive a grant under this subsection shall submit an application at such time, in such manner, and containing or accompanied by such information as the Secretary considers necessary. Each such application shall contain assurances and evidence that—

(1) The State agency receiving the grant will coordinate with other appropriate State agencies (including the State educational agency) in carrying out the grant.

(2) The State plan will address the early intervention and the special education and related service needs of all handicapped children from birth through five years of age with special emphasis on children who are often not identified and children who are not now served.

(3) The State plan will be closely coordinated with child-find efforts under section 612(2)(C) and with preschool incentive grant activities under section 619 of this Act.

(c) The Secretary shall include in the annual report under section 618 of this Act the following:

(1) The States and State agencies receiving grants under this subsection and the types of grants received.

(2) A description of the activities in each State being undertaken through grants under ths subsection.

(3) Beginning in fiscal year 1987, in consultation with the National Council on the Handicapped a description of the status of early intervention programs for handicapped children from birth through five years of age (including children receiving services through Head Start, Developmental Disabilities Program, Maternal and Child Health Services, Mental Health/Mental Retardation Agency Services, and State child-developmental centers and private agencies under contract with State agencies or local schools).

(d) Any planning or development grant application submitted pursuant to section 623(b) prior to the date of enactment of the Education of the Handicapped Amendments of 1986 shall qualify for a grant under this section.

RESTRICTION

SEC. 629. Nothing in this subpart shall be construed—

(1) to permit the State to reduce medical assistance available, or to alter eligibility, under title XIX of the Social Security Act, relating to medicaid, for handicapped infants within the State; and

(2) to encourage the reduction in benefits paid under other public or private insurance coverage.

APPLICABILITY OF CERTAIN PROVISIONS OF LAW

SEC. 630. The provisions of sections 616, 617, 618, and 620 of this Act shall, to the extent not inconsistent with this subpart, apply to the program authorized by this subpart, except that—

(1) any reference to a State educational agency shall be deemed to be a reference to the State agency established or designated under section 624(b);

(2) any reference to the education of handicapped children and the education of all handicapped children and the provision of public education to all handicapped children shall be deemed to be a reference to the provision of services to handicapped infants in accordance with subpart 2 of this part; and

(3) any reference to local educational agencies and intermediate educational units shall be deemed to be local service providers under such subpart 2.

PART C—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF THE HANDICAPPED

REGIONAL RESOURCE CENTERS

SEC. [621.] *631.* (a) The Secretary is authorized to make grants to, or to enter into contracts or cooperative agreements with, institutions of higher education, private nonprofit organizations, State educational agencies, or combinations of such agencies or institutions (which combinations may include one or more local educational agencies) within particular regions of the United States, to pay all or part of the cost of the establishment and operation of regional resource centers. Each regional resource center shall provide consultation, technical assistance, and training to State educational agencies and through such State agencies to local educational agencies. Each center established or operated under this section shall—

(1) assist in identifying and solving persistent problems in providing quality special education, *including physical education,* and related services for handicapped children and youth;

(2) assist in developing, identifying, and replicating successful programs and practices which will improve special education, *including physical education,* and related services to handicapped children and youth and their families;

(3) gather and dessiminate information to all State educational agencies within the region and coordinate activities with other centers assisted under this section and other relevant projects conducted by the Department of Education; [and]

(4) assist in the improvement of information dissemination to and training activities for professionals and parents of handicapped children; *and*

(5) gather and disseminate information to State educational agencies within the region on successful activities developed under section 636 relating to transitional services for handicapped youth.

(b) In determining whether to approve an application for a project under this section, the Secretary shall consider the need for such a center in the region to be served by the applicant and the capability of the applicant to fulfill the responsibilities under subsection (a).

(c) Each regional resource center shall report a summary of materials produced or developed and this information shall be included in the annual report to Congress required under section 618.

SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH

Sec. [622.] *632.* (a)(1) The Secretary is authorized to make grants to, or to enter into cooperative agreements or contracts with, public or nonprofit private agencies, institutions, or organizations to assist State educational agencies to—

(A) assure deaf-blind children and youth provision of special education and related services as well as vocational and transitional services; and

(B) make available to deaf-blind youth upon attaining the age of twenty-two, programs and services to facilitate their transition from educational to other services.

(2) A grant, cooperative agreement, or contract pursuant to paragraph (1)(A) may be made only for programs providing (A) technical assistance to agencies, institutions, or organizations providing educational services to deaf-blind children or youth; (B) preservice or inservice training to paraprofessionals, professionals, and related services personnel preparing to serve, or serving, deaf-blind children or youth; (C) replication of successful innovative approaches to providing educational or related services to deaf-blind children and youth; and (D) facilitation of parental involvement in the education of their deaf-blind children and youth. Such programs may include—

(i) the diagnosis and educational evaluation of children and youth at risk of being certified deaf-blind;

(ii) programs of adjustment, education, *including physical education* and orientation for deaf-blind children and youth; and

(iii) consultative, counseling, and training services for the families of deaf-blind children and youth.

(3) A grant, cooperative agreement, or contract pursuant to paragraph (1)(B) may be made only for programs providing (A) technical assistance to agencies, institutions, and organizations serving, or proposing to serve, deaf-blind individuals who have attained age twenty-two years; (B) training or inservice training to paraprofessionals or professionals serving, or preparing to serve, such individuals; and (C) assistance in the development or replication of successful innovative approaches to providing rehabilitative, semisupervised, or independent living programs.

(4) In carrying out this subsection, the Secretary shall take into consideration the need for a center for deaf-blind children and youth in light of the general availability and quality of existing services for such children and youth in the part of the country involved.

(b) The Secretary is also authorized to enter into a limited number of cooperative agreements or contracts to establish and support regional programs for the provision of technical assistance in the education of deaf-blind children and youth.

(c)(1) Programs supported under this section shall report annually to the Secretary on (A) the number of deaf-blind children and youth served by age, severity, and nature of deaf-blindness; (B) the number of paraprofessionals, professionals, and family members directly, served by each activity; and (C) the types of services provided.

(2) The Secretary shall examine the number of deaf-blind children and youth (A) reported under subparagraph (C)(1)(A) and by the States; (B) served by the programs under part B of this Act and subpart 2 of part B, title I, of the Elementary and Secondary Education Act of 1965 (as modified by chapter 1 of the Education Consolidation and Improvement Act of 1981); and (C) the Deaf-Blind Registry of each State. The Secretary shall revise the count of deaf-blind children and youth to reflect the most accurate count.

(3) The Secretary shall summarize these data for submission in the annual report required under section 618.

(d) The Secretary shall disseminate materials and information concerning effective practices in working with deaf-blind children and youth.

EARLY EDUCATION FOR HANDICAPPED CHILDREN

[SEC. 623. (a)(1) The Secretary is authorized to arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations, for the development and operation of programs of experimental preschool and early education for handicapped children which the Secretary determines show promise of promoting a comprehensive and strengthened approach to the special problems of such children. Such programs shall include activities and services designated to (1) facilitate the intellectual, emotional, physical, mental, social, and language development of such children; (2) encourage the participation of the parents of such children in the development and operation of any such program; and (3) acquaint the community to be served by any such program with the problems and potentialities of such children.]

EARLY INTERVENTION AND PRESCHOOL SERVICES FOR HANDICAPPED CHILDREN

SEC. 633. (a)(1) The Secretary is authorized to arrange by contract, grant, or cooperative agreement with appropriate public agencies, institutions of higher education (including university affiliated facilities program under the Developmental Disabilities Act of 1984 and the satellite network of the developmental disabilities program and the research and training centers under the Rehabilitation Act of 1973 specifically designed to address the needs of handicapped infants), and other appropriate nonprofit organizations for—

(A) the development and operation of programs of experimental early intervention for traditionally unserved handicapped infants and children and their families;

(B) preservice and inservice training of personnel including volunteers and paraprofessionals as well as physicians, nurses, occupational and physical therapists, educators, psychologists, social workers, speech and language pathologists, and administrators in early intervention practices; and

(C) research pertaining to the intellectual, emotional, physical, social, and language development of handicapped children including investigations of the cost effectiveness of various approaches to service delivery.

(2) Programs authorized by this subsection shall be coordinated with similar programs in the schools operated or supported by State or local educational agencies of the community to be served.

(3) As much as is feasible, such programs shall be geographically dispersed throughout the Nation in urban as well as rural areas. *In carrying out the provisions of this Act the Secretary shall, due to the overrepresentation of native Americans, including native Hawaiians, in statistical reports of children with handicaps, make one grant under paragraph (1) of this subsection within the State of Hawaii to address the needs of native Hawaiian children with handicaps, and make an additional grant to address the needs of native American children with handicaps. The grant made under the previous sentence shall be in addition to any other grant which may be made to Hawaii under this section.*

(4) No arrangement pursuant to this subsection shall provide for the payment of more than 90 per centum of the total annual costs of development, operation, and evaluation of any program. Non-Federal contributions may be in cash or in kind, fairly evaluated, including, but not limited to, plant, equipment, and services.

(5) For purposes of this subsection the term "handicapped children" includes children from birth through eight years of age.

[(b)(1) Subject to paragraph (2), the Secretary is authorized to make a grant to each State through the State educational agency or other State agency to assist such State agency in planning, developing, and implementing a comprehensive delivery system for the provision of special education and related services to handicapped children from birth through five years of age.

(2) The Secretary shall make one of the following types of grants (authorized under paragraph (1)) to any State which submits an application which meets the requirements of this subsection:

(A) PLANNING GRANT.—A grant for a maximum of two years for the purpose of assessing needs within the State and establishing a procedure and design for the development of a State plan which includes parent participation and training of professionals and others.

(B) DEVELOPMENT GRANT.—A grant for a maximum of three years for the purpose of developing a comprehensive State plan, and gaining approval of this plan from the State Board of Education, The Commissioner of Education, or other designated official of the appropriate State agency.

(C) IMPLEMENTATION GRANT.—A grant for a maximum of three years for the purpose of implementing and evaluating the comprehensive State plan. A State must apply for annual renewal of such grant.

(3) Each State educational agency or other State agency desiring to receive a grant under this subsection shall submit an application at such time, in such manner, and accompanied by such information as the Secretary considers necessary. Each such application shall contain assurances and evidence that:

(A) The State agency receiving the grant will coordinate with other appropriate State agencies (including the State educational agency) in carrying out the grant.

(B) The State plan will address the special education and related service needs of all handicapped children from birth through five years of age with special emphasis on children who are often not identified and children who are not now served.

(C) The State plan will be closely coordinated with child-find efforts under section 612(2)(C) and with preschool incentive grant activities under section 619 of this Act.

(4) The Secretary shall include in the annual report under section 618 of this Act the following:

(A) The States and State agencies receiving grants under this subsection and the types of grants received.

(B) A description of the activities in each State being undertaken through grants under this subsection.

(C) Beginning in 1986, in consultation with the National Council for the Handicapped and the National Advisory Committee on the Education of Handicapped Children and Youth, a description of the status of special education and related services to handicapped children from birth through five years of age (including those receiving services through Head Start, Developmental disabilities Program, Crippled Children's Services, Mental Health/Mental Retardation Agency, and State child-development centers and private agencies under contract with local schools).]

(b)(1) Not less than 10 per centum of the funds available in any fiscal year for purposes of this section shall be available for the provision of training and technical assistance for States preparing to receive or receiving grants under subsection (a)(1)(A) of this section, and under part B.

(2) Not less than 10 per centum of the funds available in any fiscal year for purposes of this section shall be used for research pertaining to the intellectual, emotional, physical, social, and language development of handicapped infants and children, including studies providing information on various cost-effective approaches to service delivery as well as the impact and effectiveness of early intervention programs.

[(c)(1) Not less than 30 per centum of the funds made available in any fiscal year for purposes of this section may be used for purposes of subsecton (b).

(2) Not less than 10 per centum of the funds made available in any year for the purposes of subsection (b) shall be available for the provision of training and technical assistance of States preparing to receive or receiving grants under this section.]

RESEARCH, INNOVATION, TRAINING, AND DISSEMINATION ACTIVITIES IN CONNECTION WITH CENTERS AND SERVICES FOR THE HANDICAPPED

SEC. [624.] *634.* (a) The Secretary is authorized to make grants to, or to enter into contracts or cooperative agreements with such organizations or institutions, as are determined by the Secretary to be appropriate, consistent with the purposes of this part, for—

(1) research to identify and meet the full range of special needs of handicapped children and youth;

(2) the development or demonstration of new, or improvements in existing, methods, approaches, or techniques which would contribute to the adjustment and education of handicapped children and youth;

(3) training of personnel for programs specifically designed for handicapped children; and

(4) dissemination of materials and information about practices found effective in working with such children and youth.

(b) In making grants and contracts under this section, the Secretary shall ensure that the activities found under such grants and contracts will be coordinated with similar activities funded from grants and contracts under other sections of this Act.

(c) In carrying out the provisions of this section the Secretary is authorized to address the needs of the severely handicapped *including severely handicapped native American, including native Hawaiian and other native Pacific basin children and youth.*

POSTSECONDARY EDUCATION PROGRAMS

SEC. [625.] *635.* (a)(1) The Secretary is authorized to make grants to or to enter into contracts with State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational, technical, continuing, or adult education for handicapped individuals.

(2) In making grants or contracts on a competitive basis under this section, the Secretary shall give priority consideration to the four regional centers for the deaf and to model programs for individuals with handicapping conditions other than deafness—

(A) for developing and adapting programs of postsecondary, vocational, technical, continuing, or adult education to meet the special needs of handicapped individuals; and

(B) for programs that coordinate facilitate, and encourage education of handicapped individuals with their nonhandicapped peers.

(3) Of the sums made available for programs under this section, not less than $2,000,000 shall first be available for the four regional centers for the deaf.

(b) For the purposes of this section the term "handicapped individuals" means individuals who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired individuals with specific learning disabilities who by reason thereof require special education and related services.

SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTH

SEC. [626.] *636.* (a) The Secretary is authorized to make grants to, or enter into contracts with, institutions of higher education, State educational agencies, local educational agencies, or other appropriate public and private nonprofit institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act (Public Law 97-300)) to—

(1) strengthen and coordinate education, training, and related services for handicapped youth to assist in the transitional process to postsecondary education, vocational training, competitive employment, continuing education, or adult services; and

(2) stimulate the improvement and development of programs for secondary special education.

(b) Projects assisted under this section may include—

(1) developing strategies and techniques for transition to independent living, vocational training, postsecondary education, and competitive employment for handicapped youth;

(2) establishing demonstration models for services and programs which emphasize vocational training, transitional services, and placement for handicapped youth;

(3) conducting demographic studies which provide information on the numbers, age levels, types of handicapping conditions, and services required for handicapped youth in need of transitional programs;

(4) specially designed vocational programs to increase the potential for competitive employment for handicapped youth;

(5) specifically designed physical education and therapeutic recreation programs to increase the potential of handicapped youths for community participation;

[(5)] *(6)* research and development projects for exemplary service delivery models and the replication and dissemination of successful models;

[(6)] *(7)* initiating cooperative models between educational agencies and adult service agencies, including vocational rehabilitation, mental health, mental retardation, public employment, and employers, which facilitate the planning and developing of transitional services for handicapped youth to postsecondary education, vocational training, employment, continuing education and adult services; and

[(7)] *(8)* developing appropriate procedures for evaluating vocational training, placement, and transitional services for handicapped youth.

(c) For purposes of subsections (b)(1) and (b)(2), if an applicant is not an educational agency, such applicant shall coordinate with the State educational agency.

[(d) Projects funded under this section shall to the extent appropriate provide for the direct participation of handicapped students and the parents of handicapped students in the planning, development, and implementation of such projects.]

(d) Projects funded under this section shall—

(1) be coordinated with other State agencies providing services for which the student is eligible;

(2) provide individual transition plans for students served by projects funded under this section; and

(3) to the extent appropriate provide for the direct participation of handicapped students and the parents of such students in the planning, development, and implementation of such projects.

(e) The Secretary, as appropriate, shall coordinate programs described under this section with projects developed under section 311 of the Rehabilitation Act of 1973.

PROGRAM EVALUATIONS

SEC. [627.] *637.* The Secretary shall conduct, either directly or by contract, a thorough and continuing evaluation of the effectiveness of each program assisted under this part. Results of the evaluations shall be analyzed and submitted to the appropriate committees of each House of Congress together with the annual report under section 618.

AUTHORIZATION OF APPROPRIATIONS

[SEC. 628. (a) There are authorized to be appropriated to carry out the provisions of section 621, $5,700,000 for the fiscal year 1984, $6,000,000 for fiscal year 1985, and $6,300,000 for fiscal year 1986.

(b) There are authorized to be appropriated to carry out the provisions of section 622, $15,000,000 or fiscal year 1984, and for each of the two succeeding fiscal years.

(c) There are authorized to be appropriated to carry out the provisions of section 623, $26,000,000 or fiscal year 1984, $27,100,000 for fiscal year 1985, and $28,300,000 for fiscal year 1986.

(d) There are authorized to be appropriated to carry out the provisions of subsection (c) of section 624, $5,000,000 for fiscal year 1984, $5,300,000 for fiscal year 1985, and $5,600,000 for fiscal year 1986.

(e) There are authorized to be appropriated to carry out the provisions of section 625, $5,000,000 for fiscal year 1984, $5,300,000 for fiscal year 1985, and $5,500,000 for fiscal year 1986.

(f) There are authorized to be appropriated to carry out the provisions of section 626, $6,000,000 for fiscal year 1984, $6,330,000 for fiscal year 1985, and $6,660,000 for fiscal year 1986.]

SEC. 638. (a) There are authorized to be appropriated to carry out the provisions of section 631 $6,700,000 for the fiscal year 1987, $7,100,000 for the fiscal year 1988, and $7,500,000 for the fiscal year 1989.

(b) There are authorized to be appropriated to carry out the provisions of section 632, $15,900,000 for the fiscal year 1987, $16,800,000 for the fiscal year 1988, and $17,800,000 for the fiscal year 1989.

(c) There are authorized to be appropriated to carry out the provisions of section 633 $17,600,000 for the fiscal year 1987, $18,600,000 for the fiscal year 1988, and $19,700,000 for the fiscal year 1989.

(d) There are authorized to be appropriated to carry out the provisions of section 634 $5,300,000 for the fiscal year 1987, $5,600,000 for the fiscal year 1988, and $5,900,000 for the fiscal year 1989.

(e) There are authorized to be appropriated to carry out the provisions of section 635 $5,900,000 for the fiscal year 1987, $6,200,000 for the fiscal year 1988, and $6,600,000 for the fiscal year 1989.

(f) There are authorized to be appropriated to carry out the provisions of section 636 $7,300,000 for the fiscal year 1987, $7,700,000 for the fiscal year 1988, and $8,100,000 for the fiscal year 1989.

PART D—TRAINING PERSONNEL FOR THE EDUCATION OF THE HANDICAPPED

GRANTS FOR PERSONNEL TRAINING

SEC. [631.] *641.* (a)(1) The Secretary is authorized to make grants, which may include scholarships with necessary stipends and allowances, to institutions of higher education (including the university-affiliated facilities program under the Rehabilitation Act of 1973 and the satellite network of the development disabilities program) and other appropriate nonprofit agencies to assist them in training personnel for careers in special education including—

(A) special education teaching, including speech, language, and hearing impaired, and adaptive physical education;

(B) related services to handicapped children and youth in educationa settings;

(C) special education supervision and administration;

(D) special education research; and

(E) training of special education personnel and other personnel providing special services.

(2) The Secretary shall ensure that grants awarded to applicant institutions and agencies under this subsection meet State and professionally recognized standards for the training of special education and related services personnel.

(3) Grants under this subsection may be used by such institutions to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined.

(4)*(A)* The Secretary in carrying out the purposes of this subsection may reserve a sum not to exceed 5 per centum of the amount available for this subsection in each fiscal year for contracts to prepare personnel in areas where shortages exist, when a response to that need has not been adequately addressed by the grant process.

(B) Whenever possible, the Secretary shall give priority to applications from States with areas where shortages exist or where problems of implementation remain.

(b) The Secretary is authorized to make grants to institutions of higher education and other appropriate nonprofit agencies to conduct special projects to develop and demonstrate new approaches for the preservice training purposes set forth in subsection (a), for regular educators, and for the inservice training of special education personnel, including classroom aides, related services personnel, and regular education personnel who serve handicapped children.

(c)(1) The Secretary is authorized to make grants through a separate competition to private nonprofit organizations for the purpose

of providing training and information to parents of handicapped children and volunteers who work with parents to enable such individuals to participate more effectively with professionals in meeting the educational needs of handicapped children. Such grants shall be designed to meet the unique training and information needs of parents of handicapped children, including those who are members of groups that have been traditionally underrepresented, living in the area to be served by the grant. *Two such grants shall be made to nonprofit organizations serving the needs of native Americans, including native Hawaiians. The grant to Hawaii shall be in addition to and not in place of any other parent training grant made to an agency in the State of Hawaii.'.*

(2) In order to receive a grant under this subsection a private nonprofit organization shall—

(A) be governed by a board of directors on which a majority of the members are parents of handicapped children and which includes members who are professionals in the field of special education and related services who serve handicapped children and youth; or if the nonprofit private organization does not have such a board, such organization shall have a membership which represents the interests of individuals with handicapping conditions, and shall establish a special governing committee on which a majority of the members are parents of handicapped children and which includes members who are professionals in the fields of special education and related services, to operate the training and information program under this subsection;

(B) serve the parents of children with the full range of handicapping conditions under such grant program; and

(C) demonstrate the capacity and expertise to conduct effectively the training and information activities authorized under this subsection.

(3) The board of directors or special governing committee of a private nonprofit organization receiving a grant under this subsection shall meet at least once in each calendar quarter to review such parent training and information activities, and each such committee shall advise the governing board directly of its views and recommendations. Whenever a private nonprofit organization requests the renewal of a grant under this subsection, the board of directors or the special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by that private nonprofit organization during the preceding fiscal year.

(4) The Secretary shall ensure that grants under this subsection will—

(A) be distributed geographically to the greatest extent possible throughout all the States; and

(B) be targeted to parents of handicapped children in both urban and rural areas, or on a State, or regional basis.

The Secretary shall give priority to grants under this subsection which involve unserved geographic areas.

(5) Parent training and information programs assisted under the subsection shall assist parents to—

(A) better understand the nature and needs of the handicapping conditions of their child;

(B) provide followup support for their handicapped child's educational programs;

(C) communicate more effectively with special and regular educators, administrators, related services personnel, and other relevant professionals;

(D) participate in educational decisionmaking processes incuding the development of their handicapped child's individualized edcuational program;

(E) obtain information about the programs, services, and resources available to their handicapped child, and the degree to which the programs, services, and resources are appropriate; and

(F) understand the provisions for the education of handicapped children as specified under part B of this Act.

(6) Each private nonprofit organization operating a program receiving assistance under this subsection shall consult with appropriate agencies which serve or assist handicapped children and youth and are located in the jurisdictions served by the program. *Staff personnel of parent training and information programs may assist parents directly in activities under part B.*

(7) The Secretary shall provide technical assistance by grant or contract, for establishing, developing, and coordinating parent training and information programs.

(d)(1) The Secretary is authorized to make grants to institutions of higher education and other appropriate public agencies and private nonprofit organizations to conduct demonstration projects which—

(A) replicate model programs designed to train transition resource teachers who will serve the handicapped in secondary school classes and in adult service programs on the community; and

(B) are designed to address the need to fill critical shortages of special education personnel.

(2) No grant may be made under this section unless an application is made to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

GRANTS TO STATE EDUCATIONAL AGENCIES FOR TRAINEESHIPS

SEC. [632.] *642.* The Secretary shall make grants [to State educational agencies] *to each State educational agency* to assist them in establishing and maintaining, directly or through grants to institutions of higher education, programs for the preservice and inservice training of [teachers of] *personnel serving* handicapped children, or supervisors of such [teachers] *personnel.*

GRANTS TO IMPROVE RECRUITMENT OF EDUCATIONAL PERSONNEL AND DISSEMINATION OF INFORMATION CONCERNING EDUCATIONAL OPPORTUNITIES FOR THE HANDICAPPED

SEC. [633.] *643.* (a) The Secretary is authorized to make a grant to or enter into a contract with a public agency or a nonprofit private organziation or institution for a national clearinghouse on the education of the handicapped and to make grants or contracts with a

public agency or nonprofit private organization or institution for other support projects which may be deemed necessary by the Secretary to achieve the following objectives:

(1) to disseminate information and provide technical assistance on a national basis to parents, professionals, and other interested parties concerning—

(A) programs relating to the education of the handicapped under this Act and and under other Federal laws; and

(B) participation in such programs, including referral of individuals to appropriate national, State, and local agencies and organizations for further assistance;

(2) to encourage students and professional personnel to seek and obtain careers and employment in the various fields relating to the education, *including physical education,* of handicapped children and youth; and

(3) to provide information on available services and programs in postsecondary education for the handicapped.

(b) In addition to the clearinghouse established under subsection (a), the Secretary shall make a grant or enter into a contract for a national clearinghouse on postsecondary education for handicapped individuals for the purpose of providing information on available *transitional services on programs as well as* services and programs in postsecondary education for the handicapped.

(c)(1) In awarding the grants and contracts under this section, the Secretary shall give particular attention to any demonstrated experience at the national level relevant to performance of the functions established in the section, and ability to conduct such projects, communicate with the intended consumers of information, and maintain the necessary communication with other agencies and organizations.

(2) The Secretary is authorized to make contracts with profitmaking organizations under this section only when necessary for materials or media access.

REPORTS TO THE SECRETARY

SEC. [634.] *644.* (a) Not more than sixty days after the end of any fiscal year, each recipient of a grant or contract under this part during such fiscal year shall prepare and submit a report to the Secretary. Each such report shall be in such form and detail as the Secretary determines to be appropriate, and shall include—

(1) the number of individuals trained under the grant or contract, by category of training and level of training; and

(2) the number of individuals trained under the grant or contract receiving degrees and certification, by category and level of training.

(b) A summary of the date required by this section shall be included in the annual report of the Secretary under section 618 of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. [635.] *645.* [(a) There are authorized to be appropriated to carry out the provisions of this part (other than section 633)

$58,000,000 for fiscal year 1984, $61,150,000 for fiscal year 1985, and $64,370,000 for fiscal year 1986. There are authorized to be appropriated to carry out the provisions of section 633, $1,000,000 for fiscal year 1984, $1,050,000 for fiscal year 1985, and $1,110,000 for fiscal year 1986.]

(a) There are authorized to be appropriated to carry out the provisions of this part (other than section 643) $70,400,000 for fiscal year 1987 and $74,500,000 for fiscal year 1988, and $79,000,000 for fiscal year 1989. There are authorized to be appropriated to carry out the provisions of section 643, $1,200,000 for fiscal year 1987, $1,400,000 for fiscal year 1988, and $1,500,000 for fiscal year 1989.

(b) Of the funds appropriated pursuant to subsection (a) for any fiscal year, the Secretary shall reserve not less than 65 per centum for activities described in clauses (A) through (E) of section 641(a)(1).

[(b)] *(c)* Of the funds appropriated pursuant to subsection (a) for any fiscal year, the Secretary shall reserve 10 per centum for activities under section [631(c)] *641(c).*

PART E—RESEARCH IN THE EDUCATION OF THE HANDICAPPED

RESEARCH AND DEMONSTRATION PROJECTS IN EDUCATION OF HANDICAPPED CHILDREN

SEC. [641.] *651.* (a) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations for research and related activities, to assist special education personnel, related services personnel, and other appropriate persons, including parents, in improving the education and related services for handicapped children and youth and to conduct research, surveys, or demonstrations relating to the education of handicapped children and youth. Research and related activities shall be designed to increase knowledge and understanding of handicapping conditions and teaching, learning, and education-related practices and services for handicapped children and youth. Research and related activities assisted under this section shall include, but not be limited to, the following:

(1) The development of new and improved techniques and devices for teaching handicapped children and youth.

(2) The development of curricula which meet the unique educational needs of handicapped children and youth.

(3) The application of new technologies and knowledge for the purpose of improving the instruction of handicapped children and youth.

(4) The development of program models and exemplary practices in areas of special education.

(5) The dissemination of information on research and related activities conducted under this part to interested individuals and organizations.

(6) The development of program models and demonstrations for native Hawaiian Handicapped children and youth by an educational agency providing comprehensive elementary and secondary educational services to native Hawaiians. A grant

contract or cooperative agreement under this section shall be in addition to and not in place of any other grant made to other Hawaiian public or private agencies under this part.

(b) Not less than 5 per centum of the funds made available in any year for the purpose of this section shall be used to address the needs of underserved secondary schoolaged handicapped youth.

[(b)] *(c)* In carrying out this section the Secretary shall consider the special education experience of the applicant and the ability of the applicant to disseminate the findings of any grant or contract.

[(c)] *(d)* The Secretary shall publish proposed research priorities in the Federal Register every two years, not later than July 1, and shall allow a period of sixty days for public comments and suggestions. After analyzing and considering the public comments, the Secretary shall publish final research priorities in the Federal Register not later than thirty days after the close of the comment period.

[(d)] *(e)* The Secretary shall provide an index (including the title of each research project and the name and address of the researching organization) of all research projects conducted in the prior fiscal year in the annual report described under section 618. The Secretary shall make reports of research projects available to the education community at large and to other interested parties.

[(e)] *(f)* The Secretary shall coordinate the research priorities established under this section with research priorities established by the National Institute of Handicapped Research and shall provide information concerning research priorities established under this section to the National Council on the Handicapped and to the National Advisory Committee on the Education of Handicapped Children.

RESEARCH AND DEMONSTRATION PROJECTS IN PHYSICAL EDUCATION AND RECREATION FOR HANDICAPPED CHILDREN

SEC. [642.] *652.* The Secretary is authorized to make grants to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organzations, and to make contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposes relating to physical education or recreation for handicapped children, and to conduct research, surveys, or demonstrations relating to physical education or recreation for handicapped children.

PANELS OF EXPERTS

SEC. [643.] *653.* The Secretary shall from time to time appoint panels of experts who are competent to evaluate various types of proposals for projects under parts C, D, E, and F, and shall secure the advice and recommendations of each such panel before making any grant or contract under part C, D, E, and F of this Act. The panels shall be composed of—

(1) individuals from the field of special education for the handicapped and other relevant disciplines who have signifi-

cant expertise and experience in the content area and age levels addressed in the proposals; and

(2) handicapped individuals and parents of handicapped individuals when appropriate.

[AUTHORIZATION OF APPROPRIATIONS

SEC. 644. For purposes of carrying out this part, there are authorized to be appropriated $20,000,000 for fiscal year 1984, $21,100,000 for fiscal year 1985, and $22,200,000 for fiscal year 1986.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 654. For the purpose of carrying out this part, there are authorized to be appropriated $18,000,000 for fiscal year 1987, $19,000,000 for fiscal year 1988, and $20,100,000 for fiscal year 1989.

PART F—INSTRUCTIONAL MEDIA FOR THE HANDICAPPED

PURPOSE

SEC. [651.] *661.* (a) The purposes of this part are to promote—

(1) the general welfare of deaf persons by (A) bringing to such persons understanding and appreciation of those films *and through theater* which play such an important part in the general and cultural advancement of hearing persons, (B) providing through these films *and through theater* enriched educational and cultural experiences through which deaf persons can be brought into better touch with the realities of their environment, and (C) providing a wholesome and rewarding experience which deaf persons may share together; and

(2) the educational advancement of handicapped persons by (A) carrying on research in the use of educational media, *material and technology* for the handicapped, (B) producing and distributing educational media, *material and technology* for the use of handicapped persons, their parents, their actual or potential employers, and other persons directly involved in work for the advancement of the handicapped, and (C) training persons in the use of educational media, *material and technology* for the instruction of the handicapped.

CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR HANDICAPPED PERSONS

SEC. [652.] *662.* (a) The Secretary shall establish a loan service of captioned films and educational media for the purpose of making such materials available in the United States for nonprofit purposes to handicapped persons, parents of handicapped persons, and other persons directly involved in activities for the advancement of the handicapped in accordance with regulations.

(b) The Secretary is authorized to—

(1) acquire films (or rights thereto) and other educational media by purchase, lease, or gift;

(2) acquire by lease or purchase equipment necessary to the administration of this part;

(3) provide, by grant or contract, for the captioning of films;

(4) provide, by grant or contract, for the distribution of captioned films and other educational media and equipment through State schools for the handicapped and such other agencies as the Secretary may deem appropriate to serve as local or regional centers for such distribution;

(5) provide, by grant or contract, for the conduct of research in the use of educational and training films and other educational media for the handicapped, for the production and distribution of educational and training films and other educational media for the handicapped and the training of persons in the use of such films and media, including the payment to those persons of such stipends (including allowances for travel and other expenses of such persons and their dependents) as he may determine, which shall be consistent with prevailing practices under comparable federally supported programs;

(6) utilize the facilities and services of other governmental agencies; and

(7) accept gifts, contributions, and voluntary and uncompensated services of individuals and organizations.

(c) The Secretary is authorized to make grants to or enter into contracts or cooperative agreements with the National Theater of the Deaf for the purpose of providing theatrical experiences to—

(1) enrich the lives of deaf children and adults,

(2) increase public awareness and understanding or deafness and of the artistic and intellectual achievements of deaf people, and

(3) promote the integration of hearing and deaf people through shared cultural experiences.

CENTERS ON EDUCATIONAL MEDIA AND MATERIALS FOR THE HANDICAPPED

SEC. [653.] *663.* (a) The Secretary is authorized to enter into agreements with institutions of higher education, State and local educational agencies, or other appropriate nonprofit agencies, for the establishment and operation of centers on educational media and materials for the handicapped, which together will provide a comprehensive program of activities to facilitate the use of new educational technology in education programs for handicapped persons, including designing, developing, and adapting instructional materials, and such other activities consistent with the purposes of this part as the Secretary may prescribe in such agreements. Any such agreement shall—

(1) provide that Federal funds paid to a center will be used solely for such purposes as are set forth in the agreement; and

(2) authorize the center involved, subject to prior approval by the Secretary, to contract with public and private agencies and organizations for demonstration projects.

(b) In considering proposals to enter into agreements under this secton, the Secretary shall give preference to institutions and agencies—

(1) which have demonstrated the capabilities necessary for the development and evaulation of educational media for the handicapped; and

(2) which can serve the educational technology needs of the Model High School for the Deaf (established under Public Law 89–694).

(c) The Secretary shall make an annual report on activities carried out under this section which shall be transmitted to the Congress.

[AUTHORIZATION OF APPROPRIATIONS

SEC. 654. For the purposes of carrying out this part, there are authorized to be appropriated $19,000,000 for fiscal year 1984, $20,000,000 for fiscal year 1985, and $21,000,000 for fiscal year 1986.]

AUTHORIZATION OF APPROPRIATIONS

SEC. 664. For the purpose of carrying out this part, there are authorized to be appropriated $18,500,000 for fiscal year 1987, $19,600,000 for fiscal year 1988, and $20,800,000 for fiscal year 1989.

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